UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

(Mark One)

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2012

or

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission file number 001-15749

ALLIANCE DATA SYSTEMS CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**31-1429215**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
7500 Dallas Parkway, Suite 700 **Plano, Texas**	
(Address of principal executive offices)	**75024** **(Zip Code)**

(214) 494-3000
(Registrant's telephone number, including area code)

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

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

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

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

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

Large accelerated filer x Accelerated filer o Non-accelerated filer (Do not check if a smaller reporting company) o Smaller reporting company o

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

As of June 30, 2012, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the common stock held by non-affiliates of the registrant on that date was approximately $6.6 billion (based upon the closing price on the New York Stock Exchange on June 30, 2012 of $135.00 per share).

As of February 25, 2013, 49,874,416 shares of common stock were outstanding.

Documents Incorporated By Reference

Certain information called for by Part III is incorporated by reference to certain sections of the Proxy Statement for the 2013 Annual Meeting of our stockholders, which will be filed with the Securities and Exchange Commission not later than 120 days after December 31, 2012.

ALLIANCE DATA SYSTEMS CORPORATION

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Caution Regarding Forward-Looking Statements

This Form 10-K and the documents incorporated by reference herein contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements may use words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “predict,” “project,” “would” and similar expressions as they relate to us or our management. When we make forward-looking statements, we are basing them on our management’s beliefs and assumptions, using information currently available to us. Although we believe that the expectations reflected in the forward-looking statements are reasonable, these forward-looking statements are subject to risks, uncertainties and assumptions, including those discussed in the “Risk Factors” section in Item 1A of this Form 10-K, elsewhere in this Form 10-K and in the documents incorporated by reference in this Form 10-K.

If one or more of these or other risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary materially from what we projected. Any forward-looking statements contained in this Form 10-K reflect our current views with respect to future events and are subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, growth strategy and liquidity. We have no intention, and disclaim any obligation, to update or revise any forward-looking statements, whether as a result of new information, future results or otherwise, except as required by law.

PART I

Item 1. Business.

Our Company

We are a leading provider of transaction-based, data-driven marketing and loyalty solutions serving large, consumer-based businesses in a variety of industries. We offer a comprehensive portfolio of integrated outsourced marketing solutions, including customer loyalty programs, database marketing services, marketing strategy consulting, analytics and creative services, direct marketing services and private label and co-brand retail credit card programs. We focus on facilitating and managing interactions between our clients and their customers through all consumer marketing channels, including in-store, on-line, catalog, mail, telephone and email, and emerging channels such as mobile and social media. We capture and analyze data created during each customer interaction, leveraging the insight derived from that data to enable clients to identify and acquire new customers and to enhance customer loyalty. We believe that our services are becoming increasingly valuable as businesses shift marketing resources away from traditional mass marketing toward more targeted marketing programs that provide measurable returns on marketing investments.

Our client base of more than 1,000 companies consists primarily of large consumer-based businesses, including well-known brands such as Bank of Montreal, Canada Safeway, Shell Canada, AstraZeneca, Hilton, Bank of America, General Motors, Victoria's Secret, Lane Bryant, Pottery Barn, J. Crew and Ann Taylor. Our client base is diversified across a broad range of end-markets, including financial services, specialty retail, grocery and drugstore chains, petroleum retail, automotive, hospitality and travel, telecommunications and pharmaceuticals. We believe our comprehensive suite of marketing solutions offers us a significant competitive advantage, as many of our competitors offer a more limited range of services. We believe the breadth and quality of our service offerings have enabled us to establish and maintain long-standing client relationships.

Corporate Headquarters. Our corporate headquarters are located at 7500 Dallas Parkway, Suite 700, Plano, Texas 75024, where our telephone number is 214-494-3000.

Our Market Opportunity and Growth Strategy

We intend to continue capitalizing on the shift in traditional advertising and marketing spend to highly targeted marketing programs. We intend to enhance our position as a leading provider of targeted, data-driven and transaction-based marketing and loyalty solutions and to continue our growth in revenue and earnings by pursuing the following strategies:

- *Capitalize on our Leadership in Highly Targeted and Data-Driven Consumer Marketing.* As consumer-based businesses shift their marketing spend to transaction-based marketing strategies, we believe we are well-positioned to acquire new clients and sell additional services to existing clients based on our extensive experience in capturing and analyzing our clients' customer transaction data to develop targeted marketing programs. We believe our comprehensive portfolio of high-quality targeted marketing and loyalty solutions provides a competitive advantage over other marketing services firms with more limited service offerings. We seek to extend our leadership position in the transaction-based and targeted marketing services sector by continuing to improve the breadth and quality of our products and services. We intend to enhance our leadership position in loyalty programs by expanding the scope of the Canadian AIR MILES® Reward Program, by continuing to develop stand-alone loyalty programs such as the Hilton HHonors® Program, and by increasing our penetration in the retail sector with our integrated marketing and credit services offering.

- *Sell More Fully Integrated End-to-End Marketing Solutions.* In our Epsilon® segment, we have assembled what we believe is the industry's most comprehensive suite of targeted and data-driven marketing services, including marketing strategy consulting, data services, database development and management, marketing analytics, creative design and delivery services such as email communications. We offer an end-to-end solution to clients, providing a significant opportunity to expand our relationships with existing clients, the majority of whom do not currently purchase our full suite of services. In addition, we further intend to integrate our product and service offerings so that we can provide clients with a comprehensive portfolio of targeted marketing solutions, including both coalition and individual loyalty programs, private label retail credit card programs and other transaction-based marketing solutions. By selling integrated solutions across our entire client base, we have a significant opportunity to maximize the value of our long-standing client relationships.

- *Continue to Expand our Global Footprint.* We plan to grow our business by leveraging our core competencies in the North American marketplace to further penetrate international markets. We intend to expand in new markets where a burgeoning middle class has consumer-facing businesses in those geographical regions needing marketing solutions that can help them acquire new customers and increase customer loyalty. Our investment in CBSM-Companhia Brasileira De Servicos De Marketing, the operator

of the dotz coalition loyalty program in Brazil, is 37%. In 2012, dotz expanded the number of regions in Brazil in which it operates by entering into three additional regions and now operates in five markets with more than six million customers enrolled in the program. We expect to enter into five additional markets in Brazil during 2013. We also have a 34% ownership interest in Direxions Global Solutions Private Ltd., a loyalty, CRM solutions and data analytics provider in India. Global reach is also increasingly important as our clients grow into new markets, and we are well positioned to cost-effectively increase our global presence. We believe continued international expansion will provide us with strong revenue growth opportunities.

- *Optimize our Business Portfolio.* We intend to continue to evaluate our products and services given our strategic direction and demand trends. While we are focused on realizing organic revenue growth and margin expansion, we will consider select acquisitions of complementary businesses that would enhance our product portfolio, market positioning or geographic presence. In November 2012, we acquired the Hyper Marketing group of companies, or HMI, a marketing services agency. This acquisition expanded Epsilon's agency depth and capabilities; additionally, it added key verticals such as energy, fitness, quick service restaurants and technology.

Products and Services

Our products and services are reported under three segments—LoyaltyOne®, Epsilon and Private Label Services and Credit, and are listed below. Financial information about our segments and geographic areas appears in Note 19, "Segment Information," of the Notes to Consolidated Financial Statements.

Segment	Products and Services
LoyaltyOne	• AIR MILES Reward Program • Loyalty Services —Loyalty consulting —Customer analytics —Creative services
Epsilon	• Marketing Services —Agency services —Database design and management —Data services —Analytical services —Traditional and digital communications
Private Label Services and Credit	• Receivables Financing —Underwriting and risk management —Receivables funding • Processing Services —New account processing —Bill processing —Remittance processing —Customer care • Marketing Services

LoyaltyOne

Our LoyaltyOne clients are focused on targeting, acquiring and retaining loyal and profitable customers. We use the information gathered through our loyalty programs to help our clients design and implement effective marketing programs. Our clients within this segment include financial services providers, supermarkets, drug stores, petroleum retailers and specialty retailers.

LoyaltyOne owns and operates the AIR MILES Reward Program, which is the premier coalition loyalty program in Canada, with over 170 brand name sponsors participating in the program. The AIR MILES Reward Program enables consumers to earn AIR MILES reward miles as they shop within a range of retailers and other sponsors participating in the AIR MILES Reward Program. These AIR MILES reward miles can be redeemed by our collectors for travel or other rewards.

Approximately two-thirds of Canadian households actively participate in the AIR MILES Reward Program, and it was recently named as one of the ten most influential brands in Canada in Canada's Ipsos Influence index. The three primary parties involved in our AIR MILES Reward Program are: sponsors, collectors and suppliers, each of which is described below.

Sponsors. More than 170 brand name sponsors participate in our AIR MILES Reward Program, including Canada Safeway, Shell Canada, Jean Coutu, RONA, Amex Bank of Canada, Sobey's and Bank of Montreal.

The AIR MILES Reward Program is a full service outsourced loyalty program for our sponsors, who pay us a fee per AIR MILES reward mile issued, in return for which we provide all marketing, customer service, rewards and redemption management. We typically grant participating sponsors exclusivity in their market category, enabling them to realize incremental sales and increase market share as a result of their participation in the AIR MILES Reward Program coalition.

Collectors. Collectors earn AIR MILES reward miles at thousands of retail and service locations, typically including any online presence the sponsor may have. Collectors can also earn at the many locations where collectors can use certain cards issued by Bank of Montreal and Amex Bank of Canada. This enables collectors to rapidly accumulate AIR MILES reward miles across a significant portion of their everyday spend. The AIR MILES Reward Program offers a reward structure that provides a quick, easy and free way for collectors to earn a broad selection of travel, entertainment and other lifestyle rewards through their day-to-day shopping at participating sponsors.

Suppliers. We enter into agreements with airlines, movie theaters, manufacturers of consumer electronics and other providers to supply rewards for the AIR MILES Reward Program. The broad range of rewards that can be redeemed is one of the reasons the AIR MILES Reward Program remains popular with collectors. Over 300 suppliers use the AIR MILES Reward Program as an additional distribution channel for their products. Suppliers include well-recognized companies in diverse industries, including travel, hospitality, electronics and entertainment.

In December 2011, we introduced a new program option called AIR MILES Cash to which collectors can allocate some or all of their future AIR MILES reward miles collected. Effective March 2012, collectors were able to instantly redeem their AIR MILES reward miles collected in AIR MILES Cash towards in-store purchases at participating sponsors. We currently have seven participating sponsors that can process instant redemptions of AIR MILES reward miles collected in the AIR MILES Cash program option.

Epsilon

Epsilon is a leading marketing services firm providing end-to-end, integrated marketing solutions that leverage transactional data to help clients more effectively acquire and build stronger relationships with their customers. Services include strategic consulting, customer database technologies, permission-based email marketing, loyalty management, proprietary data, predictive modeling and a full range of direct and digital agency services. On behalf of our clients, we develop marketing programs for individual consumers with highly targeted offers and communications. Since these communications are more relevant to the consumer, the consumer is more likely to be responsive to these offers, resulting in a measurable return on our clients' marketing investments. We distribute marketing campaigns and communications through all marketing channels based on the consumer's preference, including digital platforms such as email, mobile and social media. Epsilon has over 750 clients, operating primarily in the financial services, automotive, travel and hospitality, pharmaceutical and telecommunications end-markets.

Agency Services. Through our consulting services we analyze our clients' business, brand and/or product strategy to create customer acquisition and retention strategies and tactics designed to further optimize our clients' customer relationships and marketing return on investment. On November 30, 2012, we acquired HMI, a marketing services agency, which offers ROI-based targeted marketing services through digital user experience design technology, customer relationship marketing, consumer promotions marketing, direct and digital shopper marketing, distributed and local area marketing, and analytical services that include brand planning and consumer insights. The acquisition enhances Epsilon's core capabilities, strengthens its competitive advantage, expands Epsilon into new industry verticals and adds a talented team of marketing professionals.

Database Design and Management. We design, build and operate complex consumer marketing databases for large consumer-facing brands such as Hilton HHonors and the Citi ThankYou® programs. Our solutions are highly customized and support our clients' needs for real-time data integration from a multitude of data sources, including multi-channel transactional data.

Data Services. We believe we are one of the leading sources of comprehensive consumer data that is essential to marketers when making informed marketing decisions. Together with our clients, we use this data to develop highly targeted, individualized marketing programs that increase response rates and build stronger customer relationships.

Analytical Services. We provide behavior-based, demographic and attitudinal customer segmentation, purchase analysis, web analytics, marketing mix modeling, program optimization, predictive modeling and program measurement and analysis. Through our analytical services, we gain a better understanding of consumer behavior that can help our clients as they develop customer relationship strategies.

Traditional and Digital Communications. We provide strategic communication solutions and our end-to-end suite of products and services includes strategic consulting, creative services, campaign management and delivery optimization. We deploy marketing campaigns and communications through all marketing channels, including digital platforms such as email, mobile and social media. We also operate what we believe to be one of the largest global permission-based email marketing platforms in the industry.

Private Label Services and Credit

Our Private Label Services and Credit segment assists some of the best known retailers in extending their brand with a private label and/or co-brand credit card account that can be used by customers at the clients' store locations, or through on-line or catalog purchases.

Receivables Financing. Our Private Label Services and Credit segment provides risk management solutions, account origination and funding services for our more than 100 private label and co-brand credit card programs. Through these credit card programs, we had $7.1 billion in principal receivables, from over 30.3 million active accounts for the year ended December 31, 2012, with an average balance during that period of approximately $436 for accounts with outstanding balances. As of December 31, 2012, Limited Brands and its retail affiliates and Ascena Retail Group, Inc. and its retail affiliates accounted for approximately 13.2% and 11.9%, respectively, of our credit card receivables. We process millions of credit card applications each year using automated proprietary scoring technology and verification procedures to make risk-based origination decisions when approving new credit card accountholders and establishing their credit card limits. We augment these procedures with credit risk scores provided by credit bureaus. This helps us segment prospects into narrower risk ranges allowing us to better evaluate individual credit risk.

Our accountholder base consists primarily of middle- to upper-income individuals, in particular women who use our accounts primarily as brand affinity tools as well as pure financing instruments. These accounts generally have lower average balances compared to balances on general purpose credit cards. We focus our sales efforts on prime borrowers and do not target sub-prime borrowers.

We use a securitization program as our primary funding vehicle for our credit card receivables. Securitizations involve the packaging and selling of both current and future receivable balances of credit card accounts to a master trust, which is a variable interest entity, or VIE. The master trusts are consolidated in our financial statements.

Processing Services. We perform processing services and provide service and maintenance for private label and co-brand credit card programs. We use automated technology for bill preparation, printing and mailing, and also offer consumers the ability to view, print and pay their bills on-line. By doing so, we improve the funds availability for both our clients and for those private label and co-brand credit card receivables that we own or securitize. Our customer care operations are influenced by our retail heritage and we view every customer touch point as an opportunity to generate or reinforce a sale. We provide focused training programs in all areas to achieve the highest possible customer service standards and monitor our performance by conducting surveys with our clients and their customers. For the seventh year in a row, we have been certified as a Center of Excellence for the quality of our operations, the most prestigious ranking attainable, by Purdue University's Benchmark Portal. Our call centers are equipped to handle phone, mail, fax, email and web inquiries. We also provide collection activities on delinquent accounts to support our private label and co-brand credit card programs.

Marketing Services. Our private label and co-branded credit card programs are designed specifically for retailers and have the flexibility to be customized to accommodate our clients' specific needs. Through our integrated marketing services, we design and implement strategies that assist our clients in acquiring, retaining and managing valuable repeat customers. Our credit card programs capture transaction data that we analyze to better understand consumer behavior and use to increase the effectiveness of our clients' marketing activities. We use multi-channel marketing communication tools, including in-store, permission-based email, mobile messaging and direct mail to reach our clients' customers.

Safeguards to Our Business: Disaster and Contingency Planning

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

Protection of Intellectual Property and Other Proprietary Rights

We rely on a combination of copyright, trade secret and trademark laws, confidentiality procedures, contractual provisions and other similar measures to protect our proprietary information and technology used in each segment of our business. We currently have one patent application pending with the U.S. Patent and Trademark Office. We generally enter into confidentiality or license agreements with our employees, consultants and corporate partners, and generally control access to and distribution of our technology, documentation and other proprietary information. Despite the efforts to protect our proprietary rights, unauthorized parties may attempt to copy or otherwise obtain the use of our products or technology that we consider proprietary and third parties may attempt to develop similar technology independently. We pursue registration and protection of our trademarks primarily in the United States and Canada, although we also have either registered trademarks or applications pending for certain marks in Argentina, New Zealand, the European Union or some of its individual countries (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom), Peru, Mexico, Venezuela, Brazil, Australia, China, Hong Kong, Japan, South Korea, Switzerland, Norway, Russian Federation, Turkey, Vietnam and Singapore and internationally under the Madrid Protocol in several countries, including several of the aforementioned countries. We are the exclusive Canadian licensee of the AIR MILES family of trademarks pursuant to a perpetual license agreement with Air Miles International Trading B.V., for which we pay a royalty fee. We believe that the AIR MILES family of trademarks and our other trademarks are important for our branding, corporate identification and marketing of our services in each business segment.

Competition

The markets for our products and services are highly competitive. We compete with marketing services companies, credit card issuers, and data processing companies, as well as with the in-house staffs of our current and potential clients.

LoyaltyOne. As a provider of marketing services, our LoyaltyOne segment generally competes with advertising and other promotional and loyalty programs, both traditional and on-line, for a portion of a client's total marketing budget. In addition, we compete against internally developed products and services created by our existing and potential clients. We expect competition to intensify as more competitors enter our market. Competitors with our AIR MILES Reward Program may target our sponsors and collectors as well as draw rewards from our rewards suppliers. Our ability to generate significant revenue from clients and loyalty partners will depend on our ability to differentiate ourselves through the products and services we provide and the attractiveness of our loyalty and rewards programs to consumers. The continued attractiveness of our loyalty and rewards programs will also depend on our ability to remain affiliated with sponsors that are desirable to consumers and to offer rewards that are both attainable and attractive to consumers.

Epsilon. Our Epsilon segment generally competes with a variety of niche providers as well as large media/digital agencies. For the niche provider competitors, their focus has primarily been on one or two services within the marketing value chain, rather than the full spectrum of data-driven marketing services used for both traditional and on-line advertising and promotional marketing programs. For the larger media/digital agencies, most offer the breadth of services but typically do not have the internal integration of offerings to deliver a seamless "one stop shop" solution, from strategy to execution across traditional as well as digital and emerging technologies. In addition, Epsilon competes against internally developed products and services created by our existing clients and others. We expect competition to intensify as more competitors enter our market. For our targeted direct marketing services offerings, our ability to continue to capture detailed customer transaction data is critical in providing effective CRM strategies for our clients. Our ability to differentiate the mix of products and services that we offer, together with the effective delivery of those products and services, are also important factors in meeting our clients' objective to continually improve their return on marketing investment.

Private Label Services and Credit. Our Private Label Services and Credit segment competes primarily with financial institutions whose marketing focus has been on developing credit card programs with large revolving balances. These competitors further drive their businesses by cross-selling their other financial products to their cardholders. Our focus has primarily been on targeting specialty retailers that understand the competitive advantage of developing loyal customers. Typically, these retailers seek customers that make more frequent but smaller transactions at their retail locations. As a result, we are able to analyze card-based transaction data we obtain through managing our credit card programs, including customer specific transaction data and overall consumer spending patterns, to develop and implement targeted marketing strategies and to develop successful CRM strategies for our clients. As an issuer of private label retail credit cards and co-branded private label retail Visa and MasterCard credit cards, we also compete with other payment methods, primarily general purpose credit cards like Visa, MasterCard, American Express and Discover Card, as well as cash, checks and debit cards.

Regulation

In October 2012, our bank subsidiaries, World Financial Network Bank and World Financial Capital Bank, changed their names to Comenity Bank and Comenity Capital Bank, respectively.

Federal and state laws and regulations extensively regulate the operations of Comenity Bank and Comenity Capital Bank. Many of these laws and regulations are intended to maintain the safety and soundness of Comenity Bank and Comenity Capital Bank, and they impose significant restraints on those companies to which other non-regulated companies are not subject. Because Comenity Bank is deemed a credit card bank and Comenity Capital Bank is an industrial bank within the meaning of the Bank Holding Company Act, we are not subject to regulation as a bank holding company. If we were subject to regulation as a bank holding company, we would be constrained in our operations to a limited number of activities that are closely related to banking or financial services in nature. Nevertheless, as a state bank, Comenity Bank is still subject to overlapping supervision by the Federal Deposit Insurance Corporation, or FDIC, and the State of Delaware; and, as an industrial bank, Comenity Capital Bank is still subject to overlapping supervision by the FDIC and the State of Utah.

Comenity Bank and Comenity Capital Bank must maintain minimum amounts of regulatory capital, including maintenance of certain capital ratios, paid-in capital minimums, and an adequate allowance for loan loss, as well as meeting specific guidelines that involve measures and ratios of their assets, liabilities, regulatory capital and interest rate, among other factors. If Comenity Bank or Comenity Capital Bank does not meet these capital requirements, their respective regulators have broad discretion to institute a number of corrective actions that could have a direct material effect on our financial statements. To pay any dividend, Comenity Bank and Comenity Capital Bank must maintain adequate capital above regulatory guidelines.

We are limited under Sections 23A and 23B of the Federal Reserve Act and the implementing Federal Reserve Board Regulation W in the extent to which we can borrow or otherwise obtain credit from or engage in other “covered transactions” with Comenity Bank or Comenity Capital Bank, which may have the effect of limiting the extent to which Comenity Bank or Comenity Capital Bank can finance or otherwise supply funds to us. “Covered transactions” include loans or extensions of credit, purchases of or investments in securities, purchases of assets, including assets subject to an agreement to repurchase, acceptance of securities as collateral for a loan or extension of credit, or the issuance of a guarantee, acceptance, or letter of credit. Although the applicable rules do not serve as an outright bar on engaging in “covered transactions,” they do require that we engage in “covered transactions” with Comenity Bank or Comenity Capital Bank only on terms and under circumstances that are substantially the same, or at least as favorable to Comenity Bank or Comenity Capital Bank, as those prevailing at the time for comparable transactions with nonaffiliated companies. Furthermore, with certain exceptions, each loan or extension of credit by Comenity Bank or Comenity Capital Bank to us or our other affiliates must be secured by collateral with a market value ranging from 100% to 130% of the amount of the loan or extension of credit, depending on the type of collateral.

We are required to monitor and report unusual or suspicious account activity as well as transactions involving amounts in excess of prescribed limits under the Bank Secrecy Act, Internal Revenue Service, or IRS, rules, and other regulations. Congress, the IRS and the bank regulators have focused their attention on banks’ monitoring and reporting of suspicious activities. Additionally, Congress and the bank regulators have proposed, adopted or passed a number of new laws and regulations that may increase reporting obligations of banks. We are also subject to numerous laws and regulations that are intended to protect consumers, including state laws, the Truth in Lending Act, Equal Credit Opportunity Act and Fair Credit Reporting Act, as amended by the Credit Card Accountability, Responsibility and Disclosure Act of 2009. These laws and regulations mandate various disclosure requirements and regulate the manner in which we may interact with consumers. These and other laws also limit finance charges or other fees or charges earned in our activities. We conduct our operations in a manner that we believe excludes us from regulation as a consumer reporting agency under the Fair Credit Reporting Act. If we were deemed a consumer reporting agency, however, we would be subject to a number of additional complex regulatory requirements and restrictions.

A number of privacy laws and regulations have been enacted in the United States, Canada, the European Union, China and other international markets in which we operate. These laws and regulations place many restrictions on our ability to collect and disseminate customer information. In addition, the enactment of new or amended legislation around the world could place additional restrictions on our ability to utilize customer information. For example, Canada has likewise enacted privacy legislation known as the Personal Information Protection and Electronic Documents Act. Among its principles, this act requires organizations to obtain a consumer’s consent to collect, use or disclose personal information. Under this act, which took effect on January 1, 2001, the nature of the required consent depends on the sensitivity of the personal information, and the act permits personal information to be used only for the purposes for which it was collected. Some Canadian provinces have enacted substantially similar privacy legislation. We believe we have taken appropriate steps with our AIR MILES Reward Program to comply with these laws.

In the United States and under the Gramm-Leach-Bliley Act, we are required to maintain a comprehensive written information security program that includes administrative, technical and physical safeguards relating to customer information. It also requires us to provide initial and annual privacy notices to customers that describe in general terms our information sharing practices. If we intend to share nonpublic personal information about customers with affiliates and/or nonaffiliated third parties, we must provide our customers

with a notice and a reasonable period of time for each customer to "opt out" of any such disclosure. In Canada, the 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, more generally known as Canada's Anti-Spam Legislation, may restrict our ability to send commercial "electronic messages," defined to include text, sound, voice and image messages to email, instant messaging, telephone or similar accounts, where the primary purpose is advertising or promoting a commercial product or service to our customers and prospective customers. The Act when in force, will require that a sender have consent to send a commercial electronic message, and provide the customers with an opportunity to opt out from receiving future commercial electronic email messages from the sender.

In addition to U.S. federal privacy laws with which we must comply, states also have adopted statutes, regulations or other measures governing the collection and distribution of nonpublic personal information about customers. In some cases these state measures are preempted by federal law, but if not, we monitor and seek to comply with individual state privacy laws in the conduct of our business.

We also have systems and processes to comply with the USA PATRIOT ACT of 2001, which is designed to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

Employees

As of December 31, 2012, we had approximately 10,700 employees. We believe our relations with our employees are good. We have no collective bargaining agreements with our employees.

Available Information

We file or furnish annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission, or SEC. You may read and copy, for a fee, any document we file or furnish at the SEC's Public Reference Room at 100 F Street, NE, Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. Our SEC filings are also available to the public at the SEC's web site at *www.sec.gov.* You may also obtain copies of our annual, quarterly and current reports, proxy statements and certain other information filed or furnished with the SEC, as well as amendments thereto, free of charge from our web site, *www.AllianceData.com.* No information from this web site is incorporated by reference herein. These documents are posted to our web site as soon as reasonably practicable after we have filed or furnished these documents with the SEC. We post our audit committee, compensation committee, nominating and corporate governance committee, and executive committee charters, our corporate governance guidelines, and our code of ethics, code of ethics for Senior Financial Executives and Chief Executive Officer, and code of ethics for Board Members on our web site. These documents are available free of charge to any stockholder upon request.

Item 1A.Risk Factors.

RISK FACTORS

Strategic Business Risk and Competitive Environment

Our 10 largest clients represented 46.5% of our consolidated revenue in 2012 and the loss of any of these clients could cause a significant drop in our revenue.

We depend on a limited number of large clients for a significant portion of our consolidated revenue. Our 10 largest clients represented approximately 46.5% of our consolidated revenue during the year ended December 31, 2012, with Bank of Montreal representing approximately 10.5% of our consolidated revenue. A decrease in revenue from any of our significant clients for any reason, including a decrease in pricing or activity, or a decision either to utilize another service provider or to no longer outsource some or all of the services we provide, could have a material adverse effect on our consolidated revenue.

LoyaltyOne. LoyaltyOne represents 25.2% of our consolidated revenue. Our 10 largest clients in this segment represented approximately 83.3% of our LoyaltyOne revenue in 2012. Bank of Montreal and Canada Safeway represented approximately 41.5% and 12.7%, respectively, of this segment's revenue for 2012. Our contract with Bank of Montreal expires in 2017 and our contract with Canada Safeway expires in 2015, each subject to automatic renewals at five-year intervals.

Epsilon. Epsilon represents 27.4% of our consolidated revenue. Our 10 largest clients in this segment represented approximately 33.1% of our Epsilon revenue in 2012. General Motors represented approximately 11.0% of this segment's revenue for 2012. Our contract with General Motors expires in 2013, subject to a one-year renewal at the option of General Motors.

Private Label Services and Credit. Private Label Services and Credit represents 47.6% of our consolidated revenue. Our 10 largest clients in this segment represented approximately 72.7% of our Private Label Services and Credit in 2012. Limited Brands and its retail affiliates and Ascena Retail Group, Inc. and its retail affiliates represented approximately 17.9% and 16.4%, respectively, of our revenue for this segment in 2012. Our primary contract with a retail affiliate of Limited Brands expires in 2018 and our contracts with Ascena Retail Group and its retail affiliates expire in 2016 and 2019.

If actual redemptions by AIR MILES Reward Program collectors are greater than expected, or if the costs related to redemption of AIR MILES reward miles increase, our profitability could be adversely affected.

A portion of our revenue is based on our estimate of the number of AIR MILES reward miles that will go unused by the collector base. The percentage of AIR MILES reward miles not expected to be redeemed is known as "breakage."

Breakage is based on management's estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure. If actual redemptions are greater than our estimates, our profitability could be adversely affected due to the cost of the excess redemptions. In addition, since we recognize revenue over the estimated life of an AIR MILES reward mile, for those AIR MILES reward miles subject to breakage, any significant change in, or failure by management to reasonably estimate, breakage could adversely affect our profitability.

Since June 2008, our estimate of breakage has been 28%. Based on the analysis of historical redemption trends, statistical analysis performed, and the expected impact of recent changes in the program structure, we determined that our estimate of breakage should be lowered to 27% as of December 31, 2012.

Our AIR MILES Reward Program also exposes us to risks arising from potentially increasing reward costs. Our profitability could be adversely affected if costs related to redemption of AIR MILES reward miles increase. A 10% increase in the cost of redemptions would have resulted in a decrease in pre-tax income of $43.9 million for the year ended December 31, 2012.

The loss of our most active AIR MILES Reward Program collectors could negatively affect our growth and profitability.

Our most active AIR MILES Reward Program collectors drive a disproportionately large percentage of our AIR MILES Reward Program revenue. The loss of a significant portion of these collectors, for any reason, could impact our ability to generate significant revenue from sponsors. The continued attractiveness of our loyalty and rewards programs will depend in large part on our ability to remain affiliated with sponsors that are desirable to consumers and to offer rewards that are both attainable and attractive.

Airline or travel industry disruptions, such as an airline insolvency, could negatively affect the AIR MILES Reward Program, our revenues and profitability.

Air travel is one of the appeals of the AIR MILES Reward Program to collectors. As a result of airline insolvencies and restructurings, we may experience service disruptions that prevent us from fulfilling collectors' flight redemption requests. If one of our existing airline suppliers sharply reduces its fleet capacity and route network, we may not be able to satisfy our collectors' demands for airline tickets. Tickets from other airlines, if available, could be more expensive than a comparable ticket under our current supply agreements with existing suppliers, and the routes offered by the other airlines may be inadequate, inconvenient or undesirable to the redeeming collectors. As a result, we may experience higher air travel redemption costs, and collector satisfaction with the AIR MILES Reward Program might be adversely affected.

As a result of airline or travel industry disruptions, political instability, terrorist acts or war, some collectors could determine that air travel is too dangerous or burdensome. Consequently, collectors might forego redeeming AIR MILES reward miles for air travel and therefore might not participate in the AIR MILES Reward Program to the extent they previously did, which could adversely affect our revenue from the program.

If we fail to identify suitable acquisition candidates or new business opportunities, or to integrate the businesses we acquire, it could negatively affect our business.

Historically, we have engaged in a significant number of acquisitions, and those acquisitions have contributed to our growth in revenue and profitability. We believe that acquisitions and the identification and pursuit of new business opportunities will be a key component of our continued growth strategy. However, we may not be able to locate and secure future acquisition candidates or to identify and implement new business opportunities on terms and conditions that are acceptable to us. If we are unable to identify attractive acquisition candidates or successful new business opportunities, our growth could be impaired.

In addition, there are numerous risks associated with acquisitions and the implementation of new businesses, including, but not limited to:

- the difficulty and expense that we incur in connection with the acquisition or new business opportunity;
- the potential for adverse consequences when conforming the acquired company's accounting policies to ours;
- the diversion of management's attention from other business concerns;
- the potential loss of customers or key employees of the acquired company;
- the impact on our financial condition due to the timing of the acquisition or new business implementation or the failure of the acquired or new business to meet operating expectations; and
- the assumption of unknown liabilities of the acquired company.

Furthermore, acquisitions that we make may not be successfully integrated into our ongoing operations and we may not achieve expected cost savings or other synergies from an acquisition. If the operations of an acquired or new business do not meet expectations, our profitability and cash flows may be impaired and we may be required to restructure the acquired business or write-off the value of some or all of the assets of the acquired or new business.

We expect growth in our Private Label Services and Credit segment to result from new and acquired credit card programs whose credit card receivables performance could result in increased portfolio losses and negatively impact our earnings.

We expect an important source of growth in our credit card operations to come from the acquisition of existing credit card programs and initiating credit card programs with retailers and others who do not currently offer a private label or co-branded retail credit card. Although we believe our pricing and models for determining credit risk are designed to evaluate the credit risk of existing programs and the credit risk we are willing to assume for acquired and start-up programs, we cannot assure you that the loss experience on acquired and start-up programs will be consistent with our more established programs. The failure to successfully underwrite these credit card programs may result in defaults greater than our expectations and could have a material adverse impact on us and our earnings.

Increases in net charge-offs beyond our current estimates could have a negative impact on our net income and profitability.

The primary risk associated with unsecured consumer lending is the risk of default or bankruptcy of the borrower, resulting in the borrower's balance being charged-off as uncollectible. We rely principally on the customer's creditworthiness for repayment of the loan and therefore have no other recourse for collection. We may not be able to successfully identify and evaluate the creditworthiness of cardholders to minimize delinquencies and losses. An increase in defaults or net charge-offs could result in a reduction in net income.

General economic factors, such as the rate of inflation, unemployment levels and interest rates, may result in greater delinquencies that lead to greater credit losses. In addition to being affected by general economic conditions and the success of our collection and recovery efforts, the stability of our delinquency and net credit card receivable charge-off rates are affected by the credit risk of our credit card receivables and the average age or maturity of our various credit card account portfolios. Further, our pricing strategy may not offset the negative impact on profitability caused by increases in delinquencies and losses, thus any material increases in delinquencies and losses beyond our current estimates could have a material adverse impact on us. For 2012, our average credit card receivable net charge-off rate was 4.8%, compared to 6.9% and 8.9% for 2011 and 2010, respectively.

The markets for the services that we offer may contract or fail to expand which could negatively impact our growth and profitability.

Our growth and continued profitability depend on acceptance of the services that we offer. Our clients may not continue to use the loyalty and targeted marketing strategies and programs that we offer. Changes in technology may enable merchants and retail companies to directly process transactions in a cost-efficient manner without the use of our services. Additionally, downturns in the economy or the performance of retailers may result in a decrease in the demand for our marketing strategies. Further, if customers make fewer purchases of our Private Label Services and Credit customers' products and services, we will have fewer transactions to process, resulting in lower revenue. Any decrease in the demand for our services for the reasons discussed above or any other reasons could have a material adverse effect on our growth, revenue and operating results.

Competition in our industries is intense and we expect it to intensify.

The markets for our products and services are highly competitive and we expect competition to intensify in each of those markets. Some of our current competitors have longer operating histories, stronger brand names and greater financial, technical, marketing and other resources than we do. Certain of our segments also compete against in-house staffs of our current clients and others or internally developed products and services by our current clients and others. For example, as a result of increasing competitors in the loyalty market, including from Aeroplan, Air Canada's frequent flyer program, we may experience greater competition in attracting and retaining sponsors in our AIR MILES Reward Program. Our ability to generate significant revenue from clients and partners will depend on our ability to differentiate ourselves through the products and services we provide and the attractiveness of our programs to consumers. We may not be able to continue to compete successfully against our current and potential competitors.

Liquidity, Market and Credit Risk

Conversion of the convertible senior notes and exercise of the convertible note warrants may dilute the ownership interest of existing stockholders.

We issued $805.0 million and $345.0 million aggregate principal amount of convertible senior notes due in 2013 and 2014, respectively. Separately but also concurrently with these issuances, we sold warrants to acquire, subject to customary anti-dilution adjustments, up to approximately 17.5 million shares of our common stock exercisable at various times in 2013 and 2014. The conversion of some or all of the convertible senior notes and exercise of some or all of the convertible note warrants may dilute the ownership interests of existing stockholders. Any sales in the public market of any of our common stock issuable upon such conversion or exercise could adversely affect prevailing market prices of our common stock. In addition, the conversion of the convertible senior notes into shares of our common stock or a combination of cash and shares of our common stock and the exercise of some or all of the convertible note warrants could depress the price of our common stock.

Interest rate increases could materially adversely affect our earnings.

Interest rate risk affects us directly in our lending and borrowing activities. Our borrowing costs were approximately $291.5 million for the year ended December 31, 2012. To manage our risk from market interest rates, we actively monitor the interest rates and the interest sensitive components to minimize the impact that changes in interest rates have on the fair value of assets, net income and cash flow. To achieve this objective, we manage our exposure to fluctuations in market interest rates by matching asset and liability repricings and through the use of fixed-rate debt instruments to the extent that reasonably favorable rates are obtainable with such arrangements. In 2012, a 1.0% increase in interest rates would have resulted in a decrease to fiscal year pre-tax income of approximately $12.3 million. Conversely, a corresponding decrease in interest rates would have resulted in a comparable increase to pre-tax income. In addition, we enter into derivative instruments such as interest rate swaps and interest rate caps to mitigate our interest rate risk on related financial instruments or to lock the interest rate on a portion of our variable debt. We do not enter into derivative or interest rate transactions for trading or other speculative purposes.

If we are unable to securitize our credit card receivables due to changes in the market, we may not be able to fund new credit card receivables, which would have a negative impact on our operations and earnings.

A number of factors affect our ability to fund our receivables in the securitization market, some of which are beyond our control, including:

- conditions in the securities markets in general and the asset-backed securitization market in particular;
- conformity in the quality of our private label credit card receivables to rating agency requirements and changes in that quality or those requirements; and
- ability to fund required overcollateralizations or credit enhancements, which are routinely utilized in order to achieve better credit ratings to lower borrowing cost.

In addition, on April 7, 2010, the SEC proposed revised rules for asset-backed securities offerings that, if adopted, would substantially change the disclosure, reporting and offering process for public and private offerings of asset-backed securities, including those offered under our credit card securitization program. On July 26, 2011, the SEC re-proposed certain rules relating to the registrant and transaction requirements for the shelf registration of asset-backed securities. If the revised rules for asset-backed securities are adopted in their current form, issuers of publicly offered asset-backed securities would be required to disclose more information regarding the underlying assets. In addition, the proposals would alter the safe-harbor standards for the private placement of asset-backed securities to impose informational requirements similar to those that would apply to registered public offerings of such securities. The SEC also issued an advance notice of proposed rulemaking relating to the exemptions that our credit card securitization trusts rely on in our credit card securitization programs to avoid registration as investment companies. The form that these rules may ultimately take is uncertain at this time, but such rules may impact our ability or desire to issue asset-backed securities in the future.

On March 30, 2011, the SEC, the FDIC, the Board of Governors of the Federal Reserve System and certain other banking regulators proposed regulations that would mandate a five percent risk retention requirement for securitizations. We cannot predict at this time whether our existing credit card securitization programs will satisfy the new regulatory requirements or whether structural changes to those programs will be necessary. Such risk retention requirements may impact our ability or desire to issue asset-backed securities in the future.

The inability to securitize card receivables due to changes in the market, regulatory proposals, the unavailability of credit enhancements, or any other circumstance or event would have a material adverse effect on our operations and earnings.

A failure by a counterparty to deliver shares or pay amounts due to us upon completion of a transaction, due to bankruptcy or otherwise, may result in an increase in dilution with respect to our common stock or a decline in our earnings per share.

A failure by a forward counterparty, due to bankruptcy or otherwise, to deliver shares of our common stock at settlement or upon acceleration of its respective prepaid forward transaction could result in the recording of those shares as issued and outstanding for purposes of computing and reporting our basic and diluted weighted average shares and earnings per share. This may lead to a decline in our earnings per share without our receiving a return of the purchase price for those shares that we paid to the relevant forward counterparty at the time we entered into the prepaid forward transaction.

A failure by a hedge counterparty, due to bankruptcy or otherwise, to pay to us amounts owed under the note hedge transactions entered into separately but concurrently with the sale of our convertible senior notes will not reduce the consideration we are required to deliver to a holder upon conversion of its convertible senior notes, which may result in an increase in dilution with respect to our common stock if we issue shares and lead to a decline in our earnings per share, or decrease our available liquidity if we pay cash.

The hedging activity related to the activities of the credit card securitization trusts and our floating rate indebtedness subjects us to counterparty risks relating to the creditworthiness of the commercial banks with whom we enter into hedging transactions.

In order to execute hedging strategies related to the credit card securitization trusts and our floating rate indebtedness, we have entered into interest rate derivative contracts with commercial banks known as counterparties. It is our policy to enter into such contracts with counterparties that are deemed to be creditworthy. However, if macro- or micro-economic events were to negatively impact these banks, the banks might not be able to honor their obligations either to us or to the credit card securitization trusts and we might suffer a direct loss.

Our level of indebtedness could materially adversely affect our ability to generate sufficient cash to repay our outstanding debt, our ability to react to changes in our business and our ability to incur additional indebtedness to fund future needs.

We have a high level of indebtedness, which requires a high level of interest and principal payments. Subject to the limits contained in our credit agreement, the indentures governing our convertible senior notes, the indentures governing our senior notes and our other debt instruments, we may be able to incur substantial additional indebtedness

from time to time to finance working capital, capital expenditures, investments or acquisitions, or for other purposes. If we do so, the risks related to our level of indebtedness could intensify. Our level of indebtedness increases the possibility that we may be unable to generate cash sufficient to pay, when due, the principal of, interest on or other amounts due in respect of our indebtedness. Our higher level of indebtedness, combined with our other financial obligations and contractual commitments, could:

- make it more difficult for us to satisfy our obligations with respect to our indebtedness, and any failure to comply with the obligations under any of our debt instruments, including restrictive covenants, could result in an event of default under our credit agreement, the indentures governing our convertible senior notes, the indentures governing our senior notes and the agreements governing our other indebtedness;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing funds available for working capital, capital expenditures, acquisitions and other purposes;
- increase our vulnerability to adverse economic and industry conditions, which could place us at a competitive disadvantage;
- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate;
- limit our ability to borrow additional funds, or to dispose of assets to raise funds, if needed, for working capital, capital expenditures, acquisitions and other corporate purposes;
- reduce or delay investments and capital expenditures;
- cause any refinancing of our indebtedness to be at higher interest rates and require us to comply with more onerous covenants, which could further restrict our business operations; and
- prevent us from raising the funds necessary to repurchase all notes tendered to us upon the occurrence of certain changes of control, which would constitute a default under the indentures governing the convertible senior notes.

We do not intend to pay cash dividends.

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings for use in the operation and expansion of our business and do not anticipate paying any cash dividends in the foreseeable future. Any future determination to pay cash dividends will be made at the discretion of our board of directors and will be dependent upon our financial condition, operating results, capital requirements and other factors that our board deems relevant.

As a result of our significant Canadian operations, our reported financial information will be affected by fluctuations in the exchange rate between the U.S. and Canadian dollars.

We are exposed to fluctuations in the exchange rate between the U.S. and Canadian dollars through our significant Canadian operations. We do not hedge any of our net investment exposure in our Canadian operations. A 10% increase in the strength of the Canadian dollar versus the U.S. dollar would have resulted in an increase in pre-tax income of $22.3 million for the year ended December 31, 2012. Conversely, a corresponding decrease in the strength of the Canadian dollar versus the U.S. dollar would result in a comparable decrease to pre-tax income in these periods.

Regulatory Environment

Legislative and regulatory reforms may have a significant impact on our business, results of operation and financial condition.

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, was enacted into law. The Dodd-Frank Act, among other things, includes a sweeping reform of the regulation and supervision of financial institutions, as well as of the regulation of derivatives and capital market activities.

The full impact of the Dodd-Frank Act is difficult to assess because many provisions require federal agencies to adopt implementing regulations. In addition, the Dodd-Frank Act mandates multiple studies, which could result in future legislative or regulatory action. In particular, the Government Accountability Office issued its study on whether it is necessary, in order to strengthen the safety and soundness of institutions or the stability of the financial system of the United States, to eliminate the exemptions to the definition of “bank” under the Bank Holding Company Act for certain institutions including limited purpose credit card banks and industrial loan companies. The study did not recommend the elimination of these exemptions. However, if legislation were enacted to eliminate these exemptions without any grandfathering or accommodations for existing institutions, we could be required to become a bank holding company and cease certain of our activities that are not permissible for bank holding companies or divest our credit card bank subsidiary, Comenity Bank, or our industrial bank subsidiary, Comenity Capital Bank.

The Dodd-Frank Act created a Consumer Financial Protection Bureau, or CFPB, a new federal consumer protection regulator with authority to make further changes to the federal consumer protection laws and regulations. It is unclear what changes will be promulgated by the CFPB and what effect, if any, such changes would have on our business and operations. The CFPB assumed rulemaking authority under the existing federal consumer financial protection laws, and will enforce those laws against and examine certain non-depository institutions and insured depository institutions with total assets greater than $10 billion and their affiliates.

While the CFPB will not examine Comenity Bank and Comenity Capital Bank, it will receive information from their primary federal regulator. In addition, the CFPB's broad rulemaking authority is expected to impact their operations. For example, the CFPB's rulemaking authority may allow it to change regulations adopted in the past by other regulators including regulations issued under the Truth in Lending Act or the Credit Card Accountability Responsibility and Disclosure Act of 2009, or the CARD Act, by the Board of Governors of the Federal Reserve System. The CFPB's ability to rescind, modify or interpret past regulatory guidance could increase our compliance costs and litigation exposure. Furthermore, the CFPB has broad authority to prevent "unfair, deceptive or abusive" practices. If the CFPB were to exercise this authority, it could result in requirements to alter our products that would make our products less attractive to consumers and impair our ability to offer them profitably.

The Dodd-Frank Act authorizes certain state officials to enforce regulations issued by the CFPB and to enforce the Dodd-Frank Act's general prohibition against unfair, deceptive or abusive practices. To the extent that states enact requirements that differ from federal standards or courts adopt interpretations of federal consumer laws that differ from those adopted by the federal banking agencies, we may be required to alter products or services offered in some jurisdictions or cease offering products, which will increase compliance costs and reduce our ability to offer the same products and services to consumers nationwide.

The effect of the Dodd-Frank Act on our business and operations could be significant, depending upon final implementing regulations, the actions of our competitors and the behavior of other marketplace participants. In addition, we may be required to invest significant management time and resources to address the various provisions of the Dodd-Frank Act and the numerous regulations that are required to be issued under it. The Dodd-Frank Act and any related legislation or regulations may have a material impact on our business, results of operations and financial condition.

Legislation relating to consumer privacy may affect our ability to collect data that we use in providing our loyalty and marketing services, which, among other things, could negatively affect our ability to satisfy our clients' needs.

The enactment of new or amended legislation or industry regulations pertaining to consumer or private sector privacy issues could have a material adverse impact on our marketing services. Legislation or industry regulations regarding consumer or private sector privacy issues could place restrictions upon the collection, sharing and use of information that is currently legally available, which could materially increase our cost of collecting some data. These types of legislation or industry regulations could also prohibit us from collecting or disseminating certain types of data, which could adversely affect our ability to meet our clients' requirements and our profitability and cash flow targets. While 46 states and the District of Columbia have enacted data breach notification laws, there is no such federal law generally applicable to our businesses. Data breach notification legislation has been proposed widely in the United States and Europe. If enacted, these legislative measures could impose strict requirements on reporting time frames for providing notice, as well as the contents of such notices. In addition to the United States and Canadian regulations discussed below, we have expanded our marketing services through the acquisition of companies formed and operating in foreign jurisdictions that may be subject to additional or more stringent legislation and regulations regarding consumer or private sector privacy.

In the United States, federal and state laws such as the federal Gramm-Leach-Bliley Act and the Fair Credit Reporting Act, as amended by the Fair and Accurate Credit Transactions Act of 2003, make it more difficult to collect, share and use information that has previously been legally available and may increase our costs of collecting some data. Regulations under these acts give cardholders the ability to "opt out" of having information generated by their credit card purchases shared with other affiliated and unaffiliated parties or the public. Our ability to gather, share and utilize this data will be adversely affected if a significant percentage of the consumers whose purchasing behavior we track elect to "opt out," thereby precluding us and our affiliates from using their data.

In the United States, the federal Do-Not-Call Implementation Act makes it more difficult to telephonically communicate with prospective and existing customers. Similar measures were implemented in Canada beginning September 1, 2008. Regulations in both the United States and Canada give consumers the ability to "opt out," through a national do-not-call registry and state do-not-call registries of having telephone solicitations placed to them by companies that do not have an existing business relationship with the consumer. In addition, regulations require companies to maintain an internal do-not-call list for those who do not want the companies to solicit them through telemarketing. These regulations could limit our ability to provide services and information to our clients. Failure to comply with these regulations could have a negative impact on our reputation and subject us to significant penalties.

In the United States, the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 restricts our ability to send commercial electronic mail messages, the primary purpose of which is advertising or promoting a commercial product or service, to our customers and prospective customers. The act requires that a commercial electronic mail message provide the customers with an opportunity to opt-out from receiving future commercial electronic mail messages from the sender. Failure to comply with the terms of this act could have a negative impact on our reputation and subject us to significant penalties.

In Canada, the Personal Information Protection and Electronic Documents Act requires an organization to obtain a consumer's consent to collect, use or disclose personal information. Under this act, consumer personal information may be used only for the purposes for which it was collected. We allow our customers to voluntarily "opt out" from receiving either one or both promotional and marketing mail or promotional and marketing electronic mail. Heightened consumer awareness of, and concern about, privacy may result in customers "opting out" at higher rates than they have historically. This would mean that a reduced number of customers would receive bonus and promotional offers and therefore those customers may collect fewer AIR MILES reward miles.

Canada's Anti-Spam Legislation may restrict our ability to send commercial "electronic messages," defined to include text, sound, voice and image messages to email, instant messaging, telephone or similar accounts, where the primary purpose is advertising or promoting a commercial product or service to our customers and prospective customers. The Act, when in force, will require that a sender have consent to send a commercial electronic message, and provide the customers with an opportunity to opt out from receiving future commercial electronic email messages from the sender. Failure to comply with the terms of this Act or any proposed regulations that may be adopted in the future could have a negative impact on our reputation and subject us to significant monetary penalties.

Current and proposed regulation and legislation relating to our retail credit card services could limit our business activities, product offerings and fees charged.

Various federal and state laws and regulations significantly limit the retail credit card services activities in which we are permitted to engage. Such laws and regulations, among other things, limit the fees and other charges that we can impose on consumers, limit or proscribe certain other terms of our products and services, require specified disclosures to consumers, or require that we maintain certain licenses, qualifications and minimum capital levels. In some cases, the precise application of these statutes and regulations is not clear. In addition, numerous legislative and regulatory proposals are advanced each year which, if adopted, could have a material adverse effect on our profitability or further restrict the manner in which we conduct our activities. The CARD Act, which was enacted in May 2009 and together with its implementing rules, became effective in 2010, acts to limit or modify certain credit card practices and require increased disclosures to consumers. The credit card practices addressed by the rules include, but are not limited to, restrictions on the application of rate increases to existing and new balances, payment allocation, default pricing, imposition of late fees and two-cycle billing. The failure to comply with, or adverse changes in, the laws or regulations to which our business is subject, or adverse changes in their interpretation, could have a material adverse effect on our ability to collect our receivables and generate fees on the receivables, thereby adversely affecting our profitability.

Our bank subsidiaries are subject to extensive federal and state regulation that may require us to make capital contributions to them, and that may restrict the ability of these subsidiaries to make cash available to us.

Federal and state laws and regulations extensively regulate the operations of Comenity Bank, as well as Comenity Capital Bank. Many of these laws and regulations are intended to maintain the safety and soundness of Comenity Bank and Comenity Capital Bank, and they impose significant restraints on them to which other non-regulated entities are not subject. As a state bank, Comenity Bank is subject to overlapping supervision by the State of Delaware and the FDIC. As an industrial bank, Comenity Capital Bank is subject to overlapping supervision by the FDIC and the State of Utah. Comenity Bank and Comenity Capital Bank must maintain minimum amounts of regulatory capital. If Comenity Bank and Comenity Capital Bank do not meet these capital requirements, their respective regulators have broad discretion to institute a number of corrective actions that could have a direct material effect on our financial statements. Comenity Bank and Comenity Capital Bank, as institutions insured by the FDIC, must maintain certain capital ratios, paid-in capital minimums and adequate allowances for loan loss. If either Comenity Bank or Comenity Capital Bank were to fail to meet any of the capital requirements to which it is subject, we may be required to provide them with additional capital, which could impair our ability to service our indebtedness. To pay any dividend, Comenity Bank and Comenity Capital Bank must each maintain adequate capital above regulatory guidelines. Accordingly, neither Comenity Bank nor Comenity Capital Bank may be able to make any of its cash or other assets available to us, including to service our indebtedness.

If our bank subsidiaries fail to meet certain criteria, we may become subject to regulation under the Bank Holding Company Act, which could force us to cease all of our non-banking activities and lead to a drastic reduction in our profits and revenue.

If either of our depository institution subsidiaries failed to meet the criteria for the exemption from the definition of "bank" in the Bank Holding Company Act under which it operates (which exemptions are described below), and if we did not divest such depository institution upon such an occurrence, we would become subject to regulation under the Bank

Holding Company Act. This would require us to cease certain of our activities that are not permissible for companies that are subject to regulation under the Bank Holding Company Act. One of our depository institution subsidiaries, Comenity Bank, is a Delaware State FDIC-insured bank and a limited-purpose credit card bank located in Delaware. Comenity Bank will not be a "bank" as defined under the Bank Holding Company Act so long as it remains in compliance with the following requirements:

- it engages only in credit card operations;
- it does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties;
- it does not accept any savings or time deposits of less than $100,000, except for deposits pledged as collateral for its extensions of credit;
- it maintains only one office that accepts deposits; and
- it does not engage in the business of making commercial loans (except small business loans).

Our other depository institution subsidiary, Comenity Capital Bank, is a Utah industrial bank that is authorized to do business by the State of Utah and the FDIC. Comenity Capital Bank will not be a "bank" as defined under the Bank Holding Company Act so long as it remains an industrial bank in compliance with the following requirements:

- it is an institution organized under the laws of a state which, on March 5, 1987, had in effect or had under consideration in such state's legislature a statute which required or would require such institution to obtain insurance under the Federal Deposit Insurance Act; and
- it does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties.

Operational and Other Risk

We rely on third party vendors to provide products and services. Our profitability could be adversely impacted if they fail to fulfill their obligations.

The failure of our suppliers to deliver products and services in sufficient quantities and in a timely manner could adversely affect our business. If our significant vendors were unable to renew our existing contracts, we might not be able to replace the related product or service at the same cost which would negatively impact our profitability.

Failure to safeguard our databases and consumer privacy could affect our reputation among our clients and their customers, and may expose us to legal claims.

Although we have extensive physical and cyber security and associated procedures, our databases have in the past been and in the future may be subject to unauthorized access. In such instances of unauthorized access, the integrity of our databases have in the past been and may in the future be affected. Security and privacy concerns may cause consumers to resist providing the personal data necessary to support our profiling capability. The use of our loyalty, marketing services or credit card programs could decline if any compromise of physical or cyber security occurred. In addition, any unauthorized release of customer information or any public perception that we released consumer information without authorization, could subject us to legal claims from our clients or their customers, consumers or regulatory enforcement actions, which may adversely affect our client relationships.

Loss of data center capacity, interruption due to cyber attacks, loss of telecommunication links, computer viruses or inability to utilize proprietary software of third party vendors could affect our ability to timely meet the needs of our clients and their customers.

Our ability, and that of our third-party service providers, to protect our data centers against damage, loss or inoperability from fire, power loss, cyber attacks, telecommunications failure, computer viruses and other disasters is critical. In order to provide many of our services, we must be able to store, retrieve, process and manage large amounts of data as well as periodically expand and upgrade our database capabilities. Any damage to our data centers, or those of our third-party service providers, any failure of our telecommunication links that interrupts our operations or any impairment of our ability to use our software or the proprietary software of third party vendors, including impairments due to cyber attacks, could adversely affect our ability to meet our clients' needs and their confidence in utilizing us for future services.

Our failure to protect our intellectual property rights may harm our competitive position, and litigation to protect our intellectual property rights or defend against third party allegations of infringement may be costly.

Third parties may infringe or misappropriate our trademarks or other intellectual property rights, which could have a material adverse effect on our business, financial condition or operating results. The actions we take to protect our trademarks and other proprietary rights may not be adequate. Litigation may be necessary to enforce our intellectual property

rights, protect our trade secrets or determine the validity and scope of the proprietary rights of others. We may not be able to prevent infringement of our intellectual property rights or misappropriation of our proprietary information. Any infringement or misappropriation could harm any competitive advantage we currently derive or may derive from our proprietary rights. Third parties may also assert infringement claims against us. Any claims and any resulting litigation could subject us to significant liability for damages. An adverse determination in any litigation of this type could require us to design around a third party's patent or to license alternative technology from another party. In addition, litigation is time consuming and expensive to defend and could result in the diversion of our time and resources. Any claims from third parties may also result in limitations on our ability to use the intellectual property subject to these claims.

Our international operations, acquisitions and personnel may require us to comply with complex United States and international laws and regulations in the various foreign jurisdictions where we do business.

Our operations, acquisitions and employment of personnel outside the United States may require us to comply with numerous complex laws and regulations of the United States government and those of the various international jurisdictions where we do business. These laws and regulations may apply to a company, or individual directors, officers, employees or agents of such company, and may restrict our operations, investment decisions or joint venture activities. Specifically, we may be subject to anti-corruption laws and regulations, including the United States' Foreign Corrupt Practices Act, or FCPA; the United Kingdom's Bribery Act 2010, or UKBA; and Canada's Corruption of Foreign Public Officials Act, or CFPOA. These anti-corruption laws generally prohibit providing anything of value to foreign officials for the purpose of influencing official decisions, obtaining or retaining business, or obtaining preferential treatment and require us to maintain adequate record-keeping and internal controls to ensure that our books and records accurately reflect transactions. As part of our business, we or our partners may do business with state-owned enterprises, the employees and representatives of which may be considered foreign officials for purposes of the FCPA, UKBA or CFPOA. There can be no assurance that our policies, procedures, training and compliance programs will effectively prevent violation of all United States and international laws and regulations with which we are required to comply, and such a violation may subject us to penalties that could adversely affect our reputation, business, financial condition or results of operations. In addition, some of the international jurisdictions in which we operate may lack a developed legal system, have elevated levels of corruption, maintain strict currency controls, present adverse tax consequences or foreign ownership requirements, require difficult or lengthy regulatory approvals, or lack enforcement for non-compete agreements, among other obstacles.

Future sales of our common stock, or the perception that future sales could occur, may adversely affect our common stock price.

As of February 25, 2013, we had an aggregate of 100,528,849 shares of our common stock authorized but unissued and not reserved for specific purposes. In general, we may issue all of these shares without any action or approval by our stockholders. We have reserved 24,003,000 shares of our common stock for issuance under our employee stock purchase plan and our long-term incentive plans, of which 1,403,037 shares are issuable upon vesting of restricted stock awards, restricted stock units, and upon exercise of options granted as of February 25, 2013, including options to purchase approximately 380,738 shares exercisable as of February 25, 2013 or that will become exercisable within 60 days after February 25, 2013. We have reserved for issuance 1,500,000 shares of our common stock, 810,603 of which remain issuable, under our 401(k) and Retirement Savings Plan as of December 31, 2012. In addition, we may pursue acquisitions of competitors and related businesses and may issue shares of our common stock in connection with these acquisitions. Sales or issuances of a substantial number of shares of common stock, or the perception that such sales could occur, could adversely affect prevailing market prices of our common stock, and any sale or issuance of our common stock will dilute the ownership interests of existing stockholders.

Anti-takeover provisions in our organizational documents, Delaware law and the fundamental change purchase rights of our convertible senior notes may discourage or prevent a change of control, even if an acquisition would be beneficial to our stockholders, which could affect our stock price adversely and prevent or delay change of control transactions or attempts by our stockholders to replace or remove our current management.

Delaware law, as well as provisions of our certificate of incorporation, bylaws and debt instruments, could discourage unsolicited proposals to acquire us, even though such proposals may be beneficial to our stockholders.

These include:

- a board of directors classified into three classes of directors with the directors of each class having staggered, three-year terms;
- our board's authority to issue shares of preferred stock without further stockholder approval;
- provisions of Delaware law providing that directors serving on staggered boards of directors, such as ours, may be removed only for cause; and
- fundamental change purchase rights of our convertible senior notes, which allow such note holders to require us to purchase all or a portion of their convertible senior notes upon the occurrence of a fundamental change, as well as provisions requiring an increase to the conversion rate for conversions in connection with make-whole fundamental changes.

In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law, which may prohibit certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These and other provisions in our certificate of incorporation, bylaws and Delaware law could make it more difficult for stockholders or potential acquirers to obtain control of our board of directors or initiate actions that are opposed by our then-current board of directors, including a merger, tender offer or proxy contest involving us. Any delay or prevention of a change of control transaction or changes in our board of directors could cause the market price of our common stock to decline or delay or prevent our stockholders from receiving a premium over the market price of our common stock that they might otherwise receive.

Item 1B.Unresolved Staff Comments.

None.

Item 2. Properties.

As of December 31, 2012, we own one general office property and lease approximately 80 general office properties worldwide, comprised of approximately 2.7 million square feet. These facilities are used to carry out our operational, sales and administrative functions. Our principal facilities are as follows:

Location	Segment	Approximate Square Footage	Lease Expiration Date
Plano, Texas	Corporate	96,749	June 29, 2021
Columbus, Ohio	Corporate, Private Label Services and Credit	199,112	November 30, 2017
Toronto, Ontario, Canada	LoyaltyOne	194,018	September 30, 2017
Mississauga, Ontario, Canada	LoyaltyOne	50,908	November 30, 2019
Wakefield, Massachusetts	Epsilon	184,411	December 31, 2020
Irving, Texas	Epsilon	150,232	June 30, 2018
Lewisville, Texas	Epsilon	10,000	January 15, 2017
Earth City, Missouri	Epsilon	116,783	December 31, 2014
West Chicago, Illinois	Epsilon	155,412	December 31, 2024
Columbus, Ohio	Private Label Services and Credit	103,161	January 31, 2014
Westerville, Ohio	Private Label Services and Credit	100,800	July 31, 2014
Wilmington, Delaware	Private Label Services and Credit	5,198	November 30, 2020
Salt Lake City, Utah	Private Label Services and Credit	6,488	January 31, 2018

We believe our current and proposed facilities are suitable to our businesses and that we will be able to lease, purchase or newly construct additional facilities as needed.

Item 3. Legal Proceedings.

From time to time we are involved in various claims and lawsuits arising in the ordinary course of our business that we believe will not have a material effect on our business or financial condition, including claims and lawsuits alleging breaches of our contractual obligations.

Item 4. Mine Safety Disclosures.

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

Our common stock is listed on the New York Stock Exchange, or NYSE, and trades under the symbol "ADS." The following table sets forth for the periods indicated the high and low composite per share prices as reported by the NYSE.

	High	Low
Year Ended December 31, 2012		
First quarter	$ 127.55	$ 100.42
Second quarter	135.49	119.56
Third quarter	144.34	123.11
Fourth quarter	148.41	135.91
Year Ended December 31, 2011		
First quarter	$ 86.10	$ 69.67
Second quarter	97.00	80.31
Third quarter	101.51	80.38
Fourth quarter	107.33	84.91

Holders

As of February 25, 2013, the closing price of our common stock was $155.43 per share, there were 49,874,416 shares of our common stock outstanding, and there were approximately 32 holders of record of our common stock.

Dividends

We have never declared or paid any cash dividends on our common stock, and we do not anticipate paying any cash dividends on our common stock in the foreseeable future. We currently intend to retain all available funds and future earnings, if any, for use in the operation and the expansion of our business. Any future determination to pay cash dividends on our common stock will be at the discretion of our board of directors and will be dependent upon our financial condition, operating results, capital requirements and other factors that our board deems relevant. In addition, under the terms of our credit agreement, we are restricted in the amount of any cash dividends or return of capital, other distribution, payment or delivery of property or cash to our common stockholders.

Issuer Purchases of Equity Securities

On December 13, 2011, our Board of Directors authorized a stock repurchase program to acquire up to $400.0 million of our outstanding common stock from January 1, 2012 through December 31, 2012. On January 2, 2013, our Board of Directors authorized a stock repurchase program to acquire up to $400.0 million of our outstanding common stock from January 2, 2013 through December 31, 2013, subject to any restrictions pursuant to the terms of our credit agreements, indentures, applicable securities laws or otherwise.

The following table presents information with respect to purchases of our common stock made during the three months ended December 31, 2012:

Period	Total Number of Shares Purchased [1]	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs [2] (In millions)
During 2012:				
October 1-31	139,695	$ 138.95	137,200	$ 315.6
November 1-30	275,972	140.08	273,300	277.3
December 1-31	104,698	143.63	102,381	262.6
Total	520,365	$ 140.49	512,881	$ 262.6

(1) During the period represented by the table, 7,484 shares of our common stock were purchased by the administrator of our 401(k) and Retirement Saving Plan for the benefit of the employees who participated in that portion of the plan.

(2) On December 13, 2011, our Board of Directors authorized a stock repurchase program to acquire up to $400.0 million of our outstanding common stock from January 1, 2012 through December 31, 2012. On January 2, 2013, our Board of Directors authorized a stock repurchase program to acquire up to $400.0 million of our outstanding common stock from January 2, 2013 through December 31, 2013, subject to any restrictions pursuant to the terms of our credit agreements, indentures, applicable securities laws or otherwise.

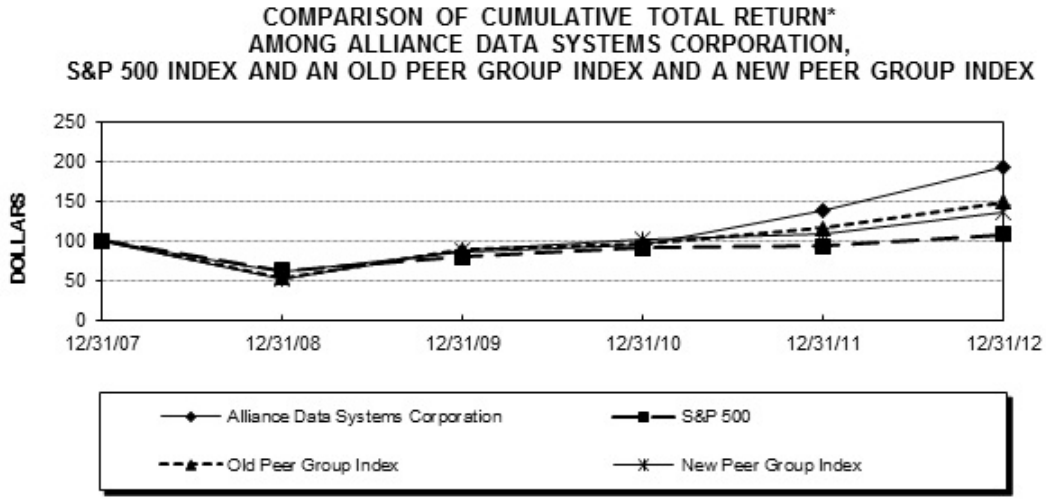
Performance Graph

The following graph compares the yearly percentage change in cumulative total stockholder return on our common stock since December 31, 2007, with the cumulative total return over the same period of (1) the S&P 500 Index, (2) a peer group of fifteen companies selected by us utilized in our prior Annual Report on Form 10-K, which we will refer to as the Old Peer Group Index, and (3) a new peer group of fourteen companies selected by us, which we will refer to as the New Peer Group Index.

The fifteen companies in the Old Peer Group Index are Acxiom Corporation, American Express Company, Capital One Financial Corporation, Convergys Corporation, Discover Financial Services, DST Systems, Inc., Equifax, Inc., Fidelity National Information Services, Inc., Fiserv, Inc., Global Payments, Inc., Harte-Hanks, Inc., Limited Brands, Inc., MasterCard, Incorporated, Total Systems Services, Inc. and The Western Union Company.

The fourteen companies in the New Peer Group Index are Acxiom Corporation, American Express Company, Discover Financial Services, Equifax, Inc., Experian PLC, Fidelity National Information Services, Inc., Fiserv, Inc., Global Payments, Inc., Nielsen Holdings N.V., Omnicom Group Inc., The Dun & Bradstreet Corporation, The Interpublic Group of Companies, Inc., Total Systems Services, Inc. and WPP plc.

Pursuant to rules of the SEC, the comparison assumes $100 was invested on December 31, 2007 in our common stock and in each of the indices and assumes reinvestment of dividends, if any. Also pursuant to SEC rules, the returns of each of the companies in each of the peer groups are weighted according to the respective company's stock market capitalization at the beginning of each period for which a return is indicated. Historical stock prices are not indicative of future stock price performance.



*$100 invested on 12/31/07 in stock or index, including reinvestment of dividends.
Fiscal year ended December 31, 2012.

	Alliance Data Systems Corporation	S&P 500	Old Peer Group Index	New Peer Group Index
December 31, 2007	$ 100.00	$ 100.00	$ 100.00	$ 100.00
December 31, 2008	62.05	63.00	53.65	51.91
December 31, 2009	86.13	79.67	89.34	88.78
December 31, 2010	94.72	91.67	97.12	102.21
December 31, 2011	138.47	93.61	116.35	108.39
December 31, 2012	193.04	108.59	148.91	137.10

Our future filings with the SEC may "incorporate information by reference," including this Form 10-K. Unless we specifically state otherwise, this Performance Graph shall not be deemed to be incorporated by reference and shall not constitute soliciting material or otherwise be considered filed under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

Item 6. Selected Financial Data.

SELECTED HISTORICAL CONSOLIDATED FINANCIAL AND OPERATING INFORMATION

The following table sets forth our summary historical consolidated financial information for the periods ended and as of the dates indicated. You should read the following historical consolidated financial information along with "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in this Form 10-K. The fiscal year financial information included in the table below is derived from our audited consolidated financial statements.

	Years Ended December 31,				
	2012	2011	2010	2009	2008
	(In thousands, except per share amounts)				
Income statement data [1]					
Total revenue	$ 3,641,390	$ 3,173,287	$ 2,791,421	$ 1,964,341	$ 2,025,254
Cost of operations (exclusive of amortization and depreciation disclosed separately below) [2]	2,106,612	1,811,882	1,545,380	1,354,138	1,341,958
Provision for loan loss	285,479	300,316	387,822	—	—
General and administrative [2]	108,059	95,256	85,773	99,823	82,804
Depreciation and other amortization	73,802	70,427	67,806	62,196	68,505
Amortization of purchased intangibles	93,074	82,726	75,420	63,090	67,291
Gain on acquisition of a business	—	—	—	(21,227)	—
Loss on the sale of assets	—	—	—	—	1,052
Merger (reimbursements) costs	—	—	—	(1,436)	3,053
Total operating expenses	2,667,026	2,360,607	2,162,201	1,556,584	1,564,663
Operating income	974,364	812,680	629,220	407,757	460,591
Interest expense, net	291,460	298,585	318,330	144,811	80,440
Income from continuing operations before income taxes	682,904	514,095	310,890	262,946	380,151
Provision for income taxes	260,648	198,809	115,252	86,227	147,599
Income from continuing operations	422,256	315,286	195,638	176,719	232,552
Loss from discontinued operations, net of taxes	—	—	(1,901)	(32,985)	(26,150)
Net income	$ 422,256	$ 315,286	$ 193,737	$ 143,734	$ 206,402
Income from continuing operations per share—basic	$ 8.44	$ 6.22	$ 3.72	$ 3.17	$ 3.25
Income from continuing operations per share—diluted	$ 6.58	$ 5.45	$ 3.51	$ 3.06	$ 3.16
Net income per share—basic	$ 8.44	$ 6.22	$ 3.69	$ 2.58	$ 2.88
Net income per share—diluted	$ 6.58	$ 5.45	$ 3.48	$ 2.49	$ 2.80
Weighted average shares used in computing per share amounts—basic	50,008	50,687	52,534	55,765	71,502
Weighted average shares used in computing per share amounts—diluted	64,143	57,804	55,710	57,706	73,640

(1) The selected financial data for the years ended December 31, 2012, 2011, and 2010 reflects a change in accounting principle as a result of the consolidation of the credit card securitization trusts. Selected financial data for historical periods prior to January 1, 2010 have not been retrospectively adjusted to reflect the change in accounting principle and therefore continue to reflect the accounting standards that were applicable during those historical periods.

(2) Included in cost of operations is stock compensation expense of $32.7 million, $25.8 million, $27.6 million, $29.3 million, and $29.8 million for the years ended December 31, 2012, 2011, 2010, 2009, and 2008, respectively. Included in general and administrative is stock compensation expense of $17.8 million, $17.7 million, $22.5 million, $24.3 million, and $18.9 million for the years ended December 31, 2012, 2011, 2010, 2009, and 2008, respectively.

	Years Ended December 31,				
	2012	2011	2010	2009	2008
	(In thousands, except per share amounts)				
Adjusted EBITDA [1] [3]					
Adjusted EBITDA	$ 1,191,737	$ 1,009,319	$ 822,540	$ 590,077	$ 655,229
Other financial data					
Cash flows from operating activities	$ 1,134,190	$ 1,011,347	$ 902,709	$ 358,414	$ 451,019
Cash flows from investing activities	$ (2,671,350)	$ (1,040,710)	$ (340,784)	$ (888,022)	$ (512,518)
Cash flows from financing activities	$ 2,209,019	$ 109,250	$ (715,675)	$ 570,189	$ (20,306)
Segment Operating data					
Private label statements generated	166,091	142,064	142,379	130,176	125,197
Credit sales	$ 12,523,632	$ 9,636,053	$ 8,773,436	$ 7,968,125	$ 7,242,422
Average credit card receivables	$ 5,927,562	$ 4,962,503	$ 5,025,915	$ 4,359,625	$ 3,915,658
AIR MILES reward miles issued	5,222,887	4,940,364	4,584,384	4,545,774	4,463,181
AIR MILES reward miles redeemed	4,040,876	3,633,921	3,634,821	3,326,307	3,121,799

(3) See “Use of Non-GAAP Financial Measures” set forth in Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations” for a discussion of our use of adjusted EBITDA and a reconciliation to net income, the most directly comparable GAAP financial measure.

	As of December 31,				
	2012	2011	2010	2009	2008
	(In thousands)				
Balance sheet data [1]					
Credit card receivables, net	$ 6,697,674	$ 5,197,690	$ 4,838,354	$ 616,298	$ 430,512
Redemption settlement assets, restricted	492,690	515,838	472,428	574,004	531,594
Total assets	12,000,139	8,980,249	8,272,152	5,225,667	4,341,989
Deferred revenue	1,249,061	1,226,436	1,221,242	1,146,146	995,634
Deposits	2,228,411	1,353,775	859,100	1,465,000	688,900
Asset-backed securities debt – owed to securitization investors	4,130,970	3,260,287	3,660,142	—	—
Long-term and other debt, including current maturities	2,854,839	2,183,474	1,869,772	1,782,352	1,491,275
Total liabilities	11,471,652	8,804,283	8,249,058	4,952,891	3,794,691
Total stockholders’ equity	528,487	175,966	23,094	272,776	547,298

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Overview

We are a leading provider of data-driven and transaction-based marketing and customer loyalty solutions. We offer a comprehensive portfolio of integrated outsourced marketing solutions, including customer loyalty programs, database marketing services, marketing strategy consulting, analytics and creative services, direct marketing services and private label and co-brand retail credit card programs. We focus on facilitating and managing interactions between our clients and their customers through all consumer marketing channels, including in-store, on-line, catalog, mail, telephone and email, and emerging channels such as mobile and social media. We capture and analyze data created during each customer interaction, leveraging the insight derived from that data to enable clients to identify and acquire new customers and to enhance customer loyalty. We believe that our services are becoming increasingly valuable as businesses shift marketing resources away from traditional mass marketing toward highly targeted marketing programs that provide measurable returns on marketing investments. We operate in the following reportable segments: LoyaltyOne, Epsilon, and Private Label Services and Credit.

LoyaltyOne. The LoyaltyOne segment generates revenue primarily from our coalition loyalty program, the AIR MILES Reward Program in Canada and, as such, the segment can be impacted by changes in the foreign currency exchange rate between the U.S. dollar and the Canadian dollar.

In our AIR MILES Reward Program, we primarily collect fees from our sponsors based on the number of AIR MILES reward miles issued and, in limited circumstances, the number of AIR MILES reward miles redeemed. All of the fees collected for AIR MILES reward miles issued are deferred and recognized over time.

AIR MILES reward miles issued and AIR MILES reward miles redeemed are the two primary drivers of LoyaltyOne's revenue and indicators of the success of the program. These two drivers are also important in the revenue recognition process.

- AIR MILES reward miles issued: The number of AIR MILES reward miles issued reflects the buying activity of the collectors at our participating sponsors, who pay us a fee per AIR MILES reward mile issued. The fees collected from sponsors for the issuance of AIR MILES reward miles represent future revenue and earnings for us. The service element consists of marketing and administrative services. Revenue related to the service element is determined in accordance with Financial Accounting Standards Board, or FASB, Accounting Standards Update, or ASU, 2009-13, "Multiple-Deliverable Revenue Arrangements." It is initially deferred and then amortized pro rata over the estimated life of an AIR MILES reward mile, or a period of 42 months, beginning with the issuance of the AIR MILES reward mile and ending upon its expected redemption. There have been no changes to management's estimate of the life of an AIR MILES reward mile in the period presented. With the adoption of ASU 2009-13, the residual method is no longer utilized for new sponsor agreements entered into or existing sponsor agreements that are materially modified; for these agreements, we measure the service element at its estimated selling price.

- AIR MILES reward miles redeemed: Redemptions show that collectors are redeeming AIR MILES reward miles to collect the rewards that are offered through our programs, which is an indicator of the success of the program. We recognize revenue from the redemptions of AIR MILES reward miles by collectors. The revenue related to the redemption element is based on the estimated fair value and is deferred until the collector redeems the AIR MILES reward miles or over the estimated life of an AIR MILES reward mile in the case of AIR MILES reward miles that we estimate will go unused by the collector base or "breakage." The estimate of breakage changed from 28% to 27% as of December 31, 2012. See "Discussion of Critical Accounting Policies and Estimates" and Note 11, "Deferred Revenue," of the Notes to Consolidated Financial Statements for additional information.

The number of AIR MILES reward miles issued impacts the number of future AIR MILES reward miles available to be redeemed. This can also impact our future revenue recognized with respect to the number of AIR MILES reward miles redeemed and the amount of breakage for those AIR MILES reward miles expected to go unredeemed. The estimated life of an AIR MILES reward mile and breakage are actively monitored and subject to external influences that may cause actual performance to differ from estimates.

In the fourth quarter of 2010, the AIR MILES Reward Program implemented a policy for the expiration of inactive accounts, cancelling the AIR MILES reward miles in the collector's account or closing such accounts when no AIR MILES reward miles are collected, redeemed or transferred for 24 consecutive months.

In December 2011, we introduced a new program option called AIR MILES Cash to which collectors can allocate some or all of their future AIR MILES reward miles collected. Effective March 2012, collectors were able to instantly redeem their AIR MILES reward miles collected in AIR MILES Cash towards in-store purchases at participating sponsors.

As of December 31, 2012, approximately one million collectors have enrolled in the program, which permits instant redemptions at seven sponsors. We expect to expand the number of sponsors with instant redemption capability in 2013, with a focus on high-frequency retail sponsors; however, the timing is dependent by required point of sale programming changes on the part of the sponsors. As the AIR MILES reward miles are issued and redeemed in a separate pool, the estimated life of an AIR MILES reward mile in AIR MILES Cash and related breakage are determined separately from our historical pool of AIR MILES reward miles. Our current expectation is that the estimated life of an AIR MILES Cash reward mile is relatively short. We did not recognize any breakage associated with AIR MILES Cash in 2012, and do not expect to recognize any breakage associated with AIR MILES Cash until we have sufficient evidence to make the assessment. AIR MILES Cash did not have a material impact to AIR MILES reward miles redeemed or issued in 2012 or to our 2012 results of operations.

In the fourth quarter of 2011, the AIR MILES Reward Program also implemented an expiry policy, such that all existing and future AIR MILES reward miles will have an expiry of five years, effective from December 31, 2011.

Epsilon. The Epsilon segment is a leading marketing services firm providing end-to-end, integrated marketing solutions that leverage transactional data to help clients more effectively acquire and build stronger relationships with their customers. Services include strategic consulting, customer database technologies, loyalty management, proprietary data, predictive modeling and a full range of direct and digital agency services.

Private Label Services and Credit. The Private Label Services and Credit segment provides risk management solutions, account origination, funding services, transaction processing, customer care and collection services for our more than 100 private label retail and co-branded credit card programs. Private Label Services and Credit primarily generates revenue from finance charges and late fees as well as other servicing fees. We focus our sales efforts on prime borrowers and do not target sub-prime borrowers. Additionally, economic trends can impact this segment.

Private label credit sales and average credit card receivables are the two primary drivers of revenue for this segment.

- Private Label Credit Sales: This represents the dollar value of private label credit card sales that occur at our clients' point of sale terminals or through catalogs or web sites. Generally, we are paid a percentage of these sales, referred to as merchant discount, from the retailers that utilize our program. Increases in private label credit sales typically lead to higher portfolio balances as cardholders finance their purchases through our bank subsidiaries.

- Average Credit Card Receivables: This represents the average balance of outstanding receivables from our cardholders at the beginning of each month during the period in question. Customers are assessed a finance charge based on their outstanding balance at the end of a billing cycle. There are many factors that impact the outstanding balances, such as payment rates, charge-offs, recoveries and delinquencies. Management actively monitors all of these factors.

Corporate/Other. This includes corporate overhead, which is not allocated to our segments, as well as all other immaterial businesses.

Year in Review Highlights

LoyaltyOne

Revenue increased 8.8% to $919.0 million and adjusted EBITDA increased 8.8% to $236.1 million for the year ended December 31, 2012 as compared to the year ended December 31, 2011.

The LoyaltyOne segment generates revenue primarily from our coalition loyalty program in Canada and, as such, the segment can be impacted by changes in the foreign currency exchange rate between the U.S. dollar and the Canadian dollar. A weaker Canadian dollar negatively impacted the year ended December 31, 2012 as the average foreign currency exchange rate for the year ended December 31, 2012 was $1.00 as compared to $1.01 in the same prior year period, which lowered revenue and adjusted EBITDA by $10.9 million and $3.1 million, respectively.

AIR MILES reward miles redeemed during the year ended December 31, 2012 increased 11.2% as compared to the prior year due to higher collector redemptions. The introduction of a five-year expiry policy for the AIR MILES Reward Program in December 2011 stimulated redemption activity during the first half of 2012, which moderated throughout the latter half of 2012.

AIR MILES reward miles issued during the year ended December 31, 2012 increased 5.7% compared to the prior year due to positive growth in consumer credit card spending and increased promotional activity in the gas and grocer sectors.

During the year ended December 31, 2012, we signed new agreements with General Motors of Canada Limited, Michaels of Canada and Toys “R” Us, Canada to participate as sponsors in the AIR MILES Reward Program.

As of December 31, 2012, we changed our estimate of breakage from 28% to 27%. The change in estimate will have no impact on the total redemption liability, but it will reduce the amount of deferred breakage by approximately $59.0 million that is expected to be recognized over the remaining life of the AIR MILES reward mile. This change in estimate is expected to reduce earnings before taxes by approximately $28.4 million in 2013, $19.2 million in 2014, $9.9 million in 2015 and $1.5 million in 2016. We expect to offset this loss with expense reductions and higher product margins.

With respect to other international initiatives, in 2012, dotz, in which we have a 37% ownership, continued to roll-out its coalition loyalty program into additional regions. We announced the rollout of dotz into the Sao Paulo State interior in April 2012, into Fortaleza in July 2012 and into Recife in November 2012. With these expansions, the dotz program now operates in five markets in Brazil with more than 6 million consumers enrolled in the program. We expect to enter into five additional markets in Brazil during 2013. In June 2012, we acquired an additional 8% ownership interest in Direxions Global Solutions Private Ltd., a loyalty, CRM solutions and data analytics provider in India, bringing our total ownership interest to 34%. We do not expect any significant impact to our results of operations from these international initiatives in 2013.

Epsilon

Revenue increased 17.6% to $996.2 million and adjusted EBITDA increased 13.7% to $222.3 million for the year ended December 31, 2012. These increases were driven primarily by the acquisition of Aspen Marketing Holdings, Inc., or Aspen, in May 2011 and the acquisition of HMI in November 2012.

During the year ended December 31, 2012, Epsilon announced new agreements with Regis Corporation, a global leader in the hair care industry, to provide a robust email marketing platform; with Walgreens, the nation’s largest drugstore chain, in support of its Balance Rewards program; with Guideposts, a leading publisher of inspirational magazines and digital content, to provide comprehensive database marketing services; and with Northwestern Mutual Life Insurance Company to manage and deploy their permission-based email newsletters and email marketing initiatives. Additionally, Epsilon expanded its relationship with Jaguar Land Rover to provide global customer relationship management and marketing services. Epsilon also signed a new multi-year agreement with Canadian Tire Corporation, one of Canada’s largest general and sporting goods retailers, to host the electronic platform for Canadian Tire Corporation’s customer rewards program, and also announced that The Container Store, a leading retailer of storage and organization products, has enlisted Epsilon for comprehensive data and database marketing services.

In addition, Epsilon renewed its long-standing partnership with KeyCorp, one of the nation’s largest bank-based financial services businesses, to continue to provide direct marketing strategy, direct mail production, email strategy and analytics; with Brookstone, a nationwide specialty retailer of consumer products, to continue to host and manage Brookstone’s customer database and continue to provide list processing and list rental fulfillment; and with Patagonia, a leading designer of sport-related apparel and accessories, where Epsilon will continue to provide comprehensive database marketing services.

On November 30, 2012, we acquired HMI, a marketing services agency. HMI offers ROI-based targeted marketing services through digital user experience design technology, customer relationship marketing, consumer promotions marketing, direct and digital shopper marketing, distributed and local area marketing, and analytical services that include brand planning and consumer insights. The acquisition enhances Epsilon’s core capabilities, strengthens its competitive advantage, expands Epsilon into new industry verticals and adds a talented team of marketing professionals.

Private Label Services and Credit

Revenue increased 16.3% to $1.7 billion and adjusted EBITDA increased 21.4% to $823.2 million for the year ended December 31, 2012 as compared to the prior year.

For the year ended December 31, 2012, average credit card receivables increased 19.4% as compared to the same period in the prior year as a result of increased credit sales, stabilized payment rates, recent client signings and recent credit card portfolio acquisitions. Credit sales increased 30.0% for the year ended December 31, 2012 due to strong credit cardholder spending, recent new client signings and recent credit card portfolio acquisitions.

Delinquency rates improved to 4.0% of principal receivables at December 31, 2012, down from 4.4% at December 31, 2011. The principal net charge-off rate was 4.8% for the year ended December 31, 2012 as compared to 6.9% in the prior year period.

In 2012, we purchased the existing credit card portfolios of Pier 1 Imports, Premier Designs, Inc., The Bon-Ton Stores, Inc. and The Talbots, Inc. for a total purchase price of approximately $780.0 million.

During the year ended December 31, 2012, we announced the signing of multi-year renewal agreements to continue providing private label credit card services to Samuels Jewelers, Inc., a leading retailer of diamonds and fine jewelry; Stage Stores, Inc., a leading retailer of brand name apparel; Gordmans Stores, Inc., a national department store retailer; and Crate and Barrel, a leading home furnishing retailer. We also signed long-term extension agreements with Reed Jewelers, a leading multichannel jewelry retailer; The Buckle, Inc., a leading multichannel retailer of private label and brand name apparel, accessories and footwear; Gardner-White Furniture, a Michigan-based multichannel retailer of home furnishings and electronics; and Little Switzerland, Inc., a leading multi-channel retailer of duty-free merchandise, providing for the continuation of credit, loyalty and multi-channel marketing services.

Additionally, we signed new multi-year agreements to provide private label credit card services for *dots*, a national women's apparel and accessories retailer; RainSoft, an international company focused on water and air purification products; Westgate Resorts, a premier operator of time share and destination accommodations; True Value, a leading cooperative of retail locations offering home improvement, hardware products and garden supplies; Ideal Image, a leader among laser hair removal centers; and Blue Nile, Inc., a leading online retailer of diamonds and fine jewelry.

Discussion of Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting policies that are described in the Notes to Consolidated Financial Statements. The preparation of the consolidated financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. We continually evaluate our judgments and estimates in determination of our financial condition and operating results. Estimates are based on information available as of the date of the financial statements and, accordingly, actual results could differ from these estimates, sometimes materially. Critical accounting policies and estimates are defined as those that are both most important to the portrayal of our financial condition and operating results and require management's most subjective judgments. The most critical accounting policies and estimates are described below.

Allowance for loan loss. We maintain an allowance for loan loss at a level that is appropriate to absorb probable losses inherent in credit card receivables. The allowance for loan loss covers forecasted uncollectable principal as well as unpaid interest and fees. The allowance for loan loss is evaluated monthly for adequacy. In estimating the allowance for principal loan losses, we utilize a migration analysis of delinquent and current credit card receivables. Migration analysis is a technique used to estimate the likelihood that a credit card receivable will progress through the various stages of delinquency and to charge-off. The allowance is maintained through an adjustment to the provision for loan loss. Charge-offs of principal amounts, net of recoveries, are deducted from the allowance.

Net charge-offs include the principal amount of losses from credit cardholders unwilling or unable to pay their account balances, as well as bankrupt and deceased credit cardholders, less recoveries and exclude charged-off interest, fees and fraud losses. Charged-off interest and fees reduce finance charges, net while fraud losses are recorded as an expense. Credit card receivables, including unpaid interest and fees, are charged-off at the end of the month during which an account becomes 180 days contractually past due, except in the case of customer bankruptcies or death. Credit card receivables, including unpaid interest and fees, associated with customer bankruptcies or death are charged-off at the end of each month subsequent to 60 days after the receipt of notification of the bankruptcy or death, but in any case, not later than the 180-day contractual time frame.

We record the actual charge-offs for unpaid interest and fees as a reduction to finance charges, net. In estimating the allowance for uncollectable unpaid interest and fees, we utilize historical charge-off trends, analyzing actual charge-offs for the prior three months. The allowance is maintained through an adjustment to finance charges, net.

In evaluating the allowance for loan loss for both principal and unpaid interest and fees, management also considers factors that may impact loan loss experience, including seasoning, loan volume and amounts, payment rates and forecasting uncertainties. If management used different assumptions in estimating incurred net losses, the impact to the allowance for loan loss could have a material effect on our consolidated financial condition and results of operations. For example, a 100 basis point change in management's estimate of incurred net loan losses could have resulted in a change of approximately $73.3 million in the allowance for loan loss at December 31, 2012, with a corresponding change in the provision for loan loss.

AIR MILES Reward Program. Because management has determined that the earnings process is not complete at the time an AIR MILES reward mile is issued, the recognition of revenue on all fees received based on issuance is deferred. We allocate the proceeds from issuances of AIR MILES reward miles into two components as follows:

- *Redemption element.* The redemption element is the larger of the two components. Revenue related to the redemption element is based on the estimated fair value. For this component, we recognize revenue at the time an AIR MILES reward mile is redeemed, or for those AIR MILES reward miles that we estimate will go unredeemed by the collector base, known as "breakage," over the estimated life of an AIR MILES reward mile.

- *Service element.* For this component, which consists of marketing and administrative services, revenue is determined in accordance with ASU 2009-13. It is initially deferred and then amortized pro rata over the estimated life of an AIR MILES reward mile. With the adoption of ASU 2009-13, the residual method is no longer utilized for new sponsor agreements entered into or existing sponsor agreements that are materially modified after January 1, 2011; for these agreements, we measure the service element at its estimated selling price. Should one of the AIR MILES Reward Program's top five sponsors materially modify or renew its agreement, it could shift the allocation of deferred revenue between the service element and redemption element.

Under certain of our contracts, a portion of the proceeds is paid to us upon the issuance of AIR MILES reward miles and a portion is paid at the time of redemption and therefore, we do not have a redemption obligation related to these contracts. Revenue is recognized at the time of redemption. Under such contracts, the proceeds received at issuance are initially deferred as service revenue and revenue is recognized pro rata over the estimated life of an AIR MILES reward mile. Amounts for revenue related to the redemption element and service element are recorded in redemption revenue and transaction revenue, respectively, in the consolidated statements of income.

The amount of revenue recognized in a period is subject to the estimated life of an AIR MILES reward mile. Based on our historical analysis, we make a determination as to average life of an AIR MILES reward mile. The estimated life of an AIR MILES reward mile is 42 months. As of December 31, 2012, the estimate of breakage was changed from 28% to 27%.

Breakage and the life of an AIR MILES reward mile are based on management's estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure.

Based on the analysis of historical redemption trends and additional statistical analysis performed, including the impact of changes in the program structure, we determined that our estimate of breakage as of December 31, 2012 has changed from 28% to 27%. The change in estimate will have no impact on the total redemption liability, but it will reduce the amount of deferred breakage by approximately $59.0 million that is expected to be recognized over the remaining life of the AIR MILES reward mile. This change in estimate is expected to reduce earnings before taxes by approximately $28.4 million in 2013, $19.2 million in 2014, $9.9 million in 2015 and $1.5 million in 2016.

As of December 31, 2012, we had $1.2 billion in deferred revenue related to the AIR MILES Reward Program that will be recognized in the future. Further information is provided in Note 11, "Deferred Revenue," of the Notes to Consolidated Financial Statements.

Stock-based compensation. We account for stock-based compensation in accordance with Accounting Standards Codification, or ASC, 718, "Compensation – Stock Compensation." Under the fair value recognition provisions of ASC 718, stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized ratably over the requisite service period. All share-based payment awards are amortized on a straight-line basis over the awards' requisite service periods, which are generally the vesting periods. We are required to estimate forfeitures at the time of grant and revise those estimates in subsequent periods if actual forfeitures differ from those estimates. See Note 13, "Stockholders' Equity," of the Notes to Consolidated Financial Statements for further information regarding the application of ASC 718.

Income Taxes. We account for uncertain tax positions in accordance with ASC 740, "Income Taxes". The application of income tax law is inherently complex. Laws and regulations in this area are voluminous and are often ambiguous. As such, we are required to make many subjective assumptions and judgments regarding our income tax exposures. Interpretations of, and guidance surrounding, income tax laws and regulations change over time. Changes in our subjective assumptions and judgments can materially affect amounts recognized in the consolidated balance sheets and statements of income. See Note 16, "Income Taxes," of the Notes to Consolidated Financial Statements for additional detail on our uncertain tax positions and further information regarding ASC 740.

Recent Accounting Pronouncements

See “Recently Issued Accounting Standards” under Note 2, “Summary of Significant Accounting Policies,” of the Notes to Consolidated Financial Statements for a discussion of certain accounting standards that we have not yet been required to adopt and may be applicable to our future financial condition, results of operations or cash flow.

Use of Non-GAAP Financial Measures

Adjusted EBITDA is a non-GAAP financial measure equal to income from continuing operations, the most directly comparable GAAP financial measure, plus stock compensation expense, provision for income taxes, interest expense, net, loss on the sale of assets, merger and other costs, depreciation and other amortization and amortization of purchased intangibles.

We use adjusted EBITDA as an integral part of our internal reporting to measure the performance of our reportable segments. Adjusted EBITDA is considered an important indicator of the operational strength of our businesses. Adjusted EBITDA eliminates the uneven effect across all business segments of considerable amounts of non-cash depreciation of tangible assets and amortization of intangible assets, including certain intangible assets that were recognized in business combinations. A limitation of this measure, however, is that it does not reflect the periodic costs of certain capitalized tangible and intangible assets used in generating revenues in our businesses. Management evaluates the costs of such tangible and intangible assets, as well as asset sales through other financial measures, such as capital expenditures, investment spending and return on capital and therefore the effects are excluded from adjusted EBITDA. Adjusted EBITDA also eliminates the non-cash effect of stock compensation expense. Stock compensation expense is not included in the measurement of segment adjusted EBITDA provided to the chief operating decision maker for purposes of assessing segment performance and decision making with respect to resource allocations. Therefore, we believe that adjusted EBITDA provides useful information to our investors regarding our performance and overall results of operations. Adjusted EBITDA is not intended to be a performance measure that should be regarded as an alternative to, or more meaningful than, either operating income or net income as an indicator of operating performance or to cash flows from operating activities as a measure of liquidity. In addition, adjusted EBITDA is not intended to represent funds available for dividends, reinvestment or other discretionary uses, and should not be considered in isolation or as a substitute for measures of performance prepared in accordance with accounting principles generally accepted in the United States of America, or GAAP.

The adjusted EBITDA measure presented in this Annual Report on Form 10-K may not be comparable to similarly titled measures presented by other companies, and may not be identical to corresponding measures used in our various agreements.

	Years Ended December 31,				
	2012	2011	2010	2009	2008
	(In thousands)				
Income from continuing operations	$ 422,256	$ 315,286	$ 195,638	$ 176,719	$ 232,552
Stock compensation expense	50,497	43,486	50,094	53,612	48,734
Provision for income taxes	260,648	198,809	115,252	86,227	147,599
Interest expense, net	291,460	298,585	318,330	144,811	80,440
Loss on the sale of assets	—	—	—	—	1,052
Merger and other costs [1]	—	—	—	3,422	9,056
Depreciation and other amortization	73,802	70,427	67,806	62,196	68,505
Amortization of purchased intangibles	93,074	82,726	75,420	63,090	67,291
Adjusted EBITDA	$ 1,191,737	$ 1,009,319	$ 822,540	$ 590,077	$ 655,229

(1) Represents investment banking, legal and accounting costs directly associated with the proposed merger with an affiliate of The Blackstone Group. Other costs represent compensation charges related to the departure of certain employees resulting from cost saving initiatives and other non-routine costs associated with the disposition of certain businesses.

Results of Continuing Operations

Year ended December 31, 2012 compared to the year ended December 31, 2011

	Year Ended December 31,		Change	
	2012	2011	$	%
	(in thousands, except percentages)			
Revenue:				
LoyaltyOne	$ 919,041	$ 844,774	$ 74,267	8.8%
Epsilon	996,210	847,136	149,074	17.6
Private Label Services and Credit	1,732,160	1,488,998	243,162	16.3
Corporate/Other	372	1,136	(764)	(67.3)
Eliminations	(6,393)	(8,757)	2,364	nm*
Total	$ 3,641,390	$ 3,173,287	$ 468,103	14.8%
Adjusted EBITDA [1]:				
LoyaltyOne	$ 236,094	$ 217,083	$ 19,011	8.8%
Epsilon	222,253	195,397	26,856	13.7
Private Label Services and Credit	823,241	678,334	144,907	21.4
Corporate/Other	(89,851)	(76,407)	(13,444)	17.6
Eliminations	—	(5,088)	5,088	nm*
Total	$ 1,191,737	$ 1,009,319	$ 182,418	18.1%
Stock compensation expense:				
LoyaltyOne	$ 9,311	$ 7,202	$ 2,109	29.3%
Epsilon	14,414	11,816	2,598	22.0
Private Label Services and Credit	8,930	6,748	2,182	32.3
Corporate/Other	17,842	17,720	122	0.7
Total	$ 50,497	$ 43,486	$ 7,011	16.1%
Depreciation and amortization:				
LoyaltyOne	$ 19,614	$ 20,253	$ (639)	(3.2)%
Epsilon	101,684	90,111	11,573	12.8
Private Label Services and Credit	42,464	35,480	6,984	19.7
Corporate/Other	3,114	7,309	(4,195)	(57.4)
Total	$ 166,876	$ 153,153	$ 13,723	9.0%
Operating income from continuing operations:				
LoyaltyOne	$ 207,169	$ 189,628	$ 17,541	9.3%
Epsilon	106,155	93,470	12,685	13.6
Private Label Services and Credit	771,847	636,106	135,741	21.3
Corporate/Other	(110,807)	(101,436)	(9,371)	9.2
Eliminations	—	(5,088)	5,088	nm*
Total	$ 974,364	$ 812,680	$ 161,684	19.9%
Adjusted EBITDA margin [2]:				
LoyaltyOne	25.7%	25.7%	—%	
Epsilon	22.3	23.1	(0.8)	
Private Label Services and Credit	47.5	45.6	1.9	
Total	32.7%	31.8%	0.9%	
Segment operating data:				
Private label statements generated	166,091	142,064	24,027	16.9%
Credit sales	$ 12,523,632	$ 9,636,053	$ 2,887,579	30.0%
Average credit card receivables	$ 5,927,562	$ 4,962,503	$ 965,059	19.4%
AIR MILES reward miles issued	5,222,887	4,940,364	282,523	5.7%
AIR MILES reward miles redeemed	4,040,876	3,633,921	406,955	11.2%

(1) Adjusted EBITDA is equal to income from continuing operations, plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and amortization and amortization of purchased intangibles. For a reconciliation of adjusted EBITDA to income from continuing operations, the most directly comparable GAAP financial measure, see “Use of Non-GAAP Financial Measures” included in this report.

(2) Adjusted EBITDA margin is adjusted EBITDA divided by revenue. Management uses adjusted EBITDA margin to analyze the operating performance of the segments and the impact revenue growth has on operating expenses.

* not meaningful.

Consolidated Operating Results:

Revenue. Total revenue increased $468.1 million, or 14.8%, to $3.6 billion for the year ended December 31, 2012 from $3.2 billion for the year ended December 31, 2011. The net increase was due to the following:

- *Transaction*. Revenue increased $10.2 million, or 3.5%, to $300.8 million for the year ended December 31, 2012 due to an increase of $13.5 million in AIR MILES reward miles issuance fees, for which we provide marketing and administrative services, as a result of increases in the number of AIR MILES reward miles issued over the previous several quarters. Other servicing fees charged to our credit cardholders also increased transaction revenue by $20.5 million. These increases were offset by a decrease of $20.8 million in lower merchant fees, which are transaction fees charged to the retailer, primarily due to increased profit sharing and royalty payments associated with the signing of new clients.

- *Redemption*. Revenue increased $63.0 million, or 11.0%, to $635.5 million for the year ended December 31, 2012 due to an 11.2% increase in AIR MILES reward miles redeemed. The introduction of a five-year expiry policy to the AIR MILES Reward Program in December 2011 stimulated redemption activity through the first half of 2012.

- *Finance charges, net*. Revenue increased $241.4 million, or 17.2%, to $1.6 billion for the year ended December 31, 2012. This increase was driven by a 19.4% increase in average credit card receivables due to strong credit cardholder spending, the stabilization of customer payment rates, as well as recent client signings and credit card portfolio acquisitions, offset in part by a 50 basis point decline in gross yield related to the recent credit card portfolio acquisitions.

- *Database marketing fees and direct marketing*. Revenue increased $125.1 million, or 15.5%, to $931.5 million for the year ended December 31, 2012. The increase in revenue was driven primarily by our acquisitions of HMI and Aspen, which added $30.8 million and $92.9 million, respectively.

- *Other revenue*. Revenue increased $28.4 million, or 27.9%, to $130.1 million for the year ended December 31, 2012 due to increased revenue associated with strategic consulting initiatives. The Aspen acquisition contributed $19.0 million of this increase.

Cost of operations. Cost of operations increased $294.7 million, or 16.3%, to $2.1 billion for the year ended December 31, 2012 as compared to $1.8 billion for the year ended December 31, 2011. The increase resulted from growth across each of our segments, including the following:

- Within the LoyaltyOne segment, cost of operations increased $57.4 million due to a $19.8 million increase in the cost of fulfillment for the AIR MILES Reward Program as a result of an 11.2% increase in the number of AIR MILES reward miles redeemed. In addition, marketing expenses increased $12.1 million due to costs associated with the launch and promotion of AIR MILES Cash, and payroll and benefit costs increased $16.2 million to support new growth initiatives, including international expansion activities.

- Within the Epsilon segment, cost of operations increased $124.8 million due to the acquisitions of HMI and Aspen, which added $26.7 million and $96.9 million, respectively. Cost of operations also increased as a result of enhancements to infrastructure and security as well as a relocation of a data center to support future growth, which were mitigated by cost-saving initiatives and operational efficiencies implemented in 2012.

- Within the Private Label Services and Credit segment, cost of operations increased $115.3 million due to growth in the segment. Payroll and benefits increased $39.6 million due to an increase in the number of associates and marketing expenses increased $21.2 million due to growth in credit sales. Credit card and other expenses increased $28.4 million due to higher volumes and growth, and legal and consulting expenses also increased $8.1 million due to new initiatives.

Provision for loan loss. Provision for loan loss decreased $14.8 million, or 4.9%, to $285.5 million for the year ended December 31, 2012 as compared to $300.3 million for the year ended December 31, 2011. The decrease in the provision was a result of improved credit quality, offset in part by the growth in credit card receivables. The net charge-off rate improved 210 basis points to 4.8% for the year ended December 31, 2012 as compared to 6.9% for the year ended December 31, 2011. Delinquency rates improved to 4.0% of principal credit card receivables at December 31, 2012 from 4.4% at December 31, 2011.

General and administrative. General and administrative expenses increased $12.8 million, or 13.4%, to $108.1 million for the year ended December 31, 2012 as compared to $95.3 million for the year ended December 31, 2011. The increase was driven by payroll and benefit costs as a result of higher medical costs and an increase in expenses for our retirement savings plans, as well as the impact of the amortization of deferred gains in 2011 associated with sale-leaseback transactions that were fully amortized in April 2011.

Depreciation and other amortization. Depreciation and other amortization increased $3.4 million, or 4.8%, to $73.8 million for the year ended December 31, 2012, as compared to $70.4 million for the year ended December 31, 2011, due to additional assets placed in service resulting from capital expenditures as well as fixed assets acquired in the Aspen and HMI acquisitions.

Amortization of purchased intangibles. Amortization of purchased intangibles increased $10.3 million, or 12.5%, to $93.1 million for the year ended December 31, 2012 as compared to $82.7 million for the year ended December 31, 2011. The increase relates to $9.6 million and $2.6 million of additional amortization associated with the intangible assets acquired in the Aspen and HMI acquisitions, respectively, and additional amortization associated with the intangible assets from recent credit card portfolio acquisitions, offset in part by certain fully amortized intangible assets.

Interest expense, net. Total interest expense, net decreased $7.1 million, or 2.4%, to $291.5 million for the year ended December 31, 2012 as compared to $298.6 million for the year ended December 31, 2011. The decrease was due to the following:

- *Securitization funding costs*. Securitization funding costs decreased $33.9 million due to lower interest rates for the year ended December 31, 2012 as compared to the year ended December 31, 2011.

- *Interest expense on deposits*. Interest on deposits increased $2.1 million as increases from higher borrowings were offset by lower average interest rates.

- *Interest expense on long-term and other debt, net*. Interest expense on long-term and other debt, net increased $24.7 million due in part to an increase in borrowings resulting from the issuance of senior notes in 2012 which added $26.5 million in interest expense. In addition, the amortization of imputed interest associated with the convertible senior notes increased $8.6 million as compared to the prior year. These increases were offset by a decline in interest expense associated with our credit facility and a decline in the amortization of debt issuance costs resulting from a $2.6 million write-off in unamortized debt costs associated with the early extinguishment of certain previous term loans in the second quarter of 2011.

Taxes. Income tax expense increased $61.8 million to $260.6 million for the year ended December 31, 2012 from $198.8 million for the year ended December 31, 2011 due primarily to an increase in taxable income, offset in part by a decline in the effective tax rate. The effective tax rate for the year ended December 31, 2012 declined to 38.2% as compared to 38.7% for the year ended December 31, 2011 due primarily to the result of settlements of certain state audits and statutory tax rate adjustments in Canada.

Segment Revenue and Adjusted EBITDA:

Revenue. Total revenue increased $468.1 million, or 14.8%, to $3.6 billion for the year ended December 31, 2012 from $3.2 billion for the year ended December 31, 2011. The net increase was due to the following:

- *LoyaltyOne*. Revenue increased $74.3 million, or 8.8%, to $919.0 million for the year ended December 31, 2012. Redemption revenue increased $63.0 million, or 11.0%, due to higher collector redemptions compared to the year ended December 31, 2011. The introduction of a five-year expiry policy to the AIR MILES Reward Program on December 31, 2011 stimulated redemption activity in the first half of 2012. Revenue from issuance fees, for which we provide marketing and administrative services, increased $13.5 million due to increases in the total number of AIR MILES reward miles issued over the previous several quarters. An unfavorable Canadian foreign currency exchange rate impacted revenue by $10.9 million.

- *Epsilon*. Revenue increased $149.1 million, or 17.6%, to $996.2 million for the year ended December 31, 2012. The acquisition of HMI contributed $31.0 million to revenue, while the acquisition of Aspen contributed $111.9 million to revenue. In addition, marketing technology revenue increased $8.4 million, or 2.0%, due to the expansion of services to its clients while data revenue decreased $2.7 million, or 1.4%, due to softness in consumer demographic data offerings.

- *Private Label Services and Credit*. Revenue increased $243.2 million, or 16.3%, to $1.7 billion for the year ended December 31, 2012. Finance charges and late fees increased by $241.4 million, driven by a 19.4% increase in average credit card receivables due to strong credit cardholder spending, the stabilization of customer payment rates, recent new client signings and recent credit card portfolio acquisitions. Other servicing fees charged to our credit cardholders increased by $20.5 million. These increases were offset by a decrease of $20.8 million in lower merchant fees, which are transaction fees charged to the retailer, primarily due to increased profit sharing and royalty payments associated with the signing of new clients.

Adjusted EBITDA. For purposes of the discussion below, adjusted EBITDA is equal to net income plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and other amortization and amortization of purchased intangibles. Adjusted EBITDA margin is adjusted EBITDA divided by revenue. Adjusted EBITDA increased $182.4 million, or 18.1%, to $1.2 billion for the year ended December 31, 2012 from $1.0 billion for the year ended December 31, 2011. The increase was due to the following:

- *LoyaltyOne*. Adjusted EBITDA increased $19.0 million, or 8.8%, to $236.1 million for the year ended December 31, 2012. Adjusted EBITDA was positively impacted by the increase in AIR MILES reward miles redeemed, partially offset by marketing expenses associated with the launch and promotion of AIR MILES Cash and increases in costs associated with our international initiatives.

- *Epsilon*. Adjusted EBITDA increased $26.9 million, or 13.7%, to $222.3 million for the year ended December 31, 2012. Adjusted EDITDA was positively impacted by the HMI acquisition, Aspen's marketing services product lines and growth in marketing technology. The positive impacts to adjusted EBITDA were somewhat offset by higher payroll and benefit costs, costs associated with a data center relocation and incremental spending on infrastructure and security to support future growth. Adjusted EBITDA margin decreased to 22.3% for the year ended December 31, 2012 from 23.1% for the prior year. The negative impact to adjusted EBITDA margin was due to a shift in revenue mix, as agency products typically carry lower adjusted EBITDA margins, and additional costs to support future growth, as discussed above.

- *Private Label Services and Credit*. Adjusted EBITDA increased $144.9 million, or 21.4%, to $823.2 million for the year ended December 31, 2012. Adjusted EBITDA was positively impacted by the increase in finance charges, net and a decline in the provision for loan loss, each as described above, offset by higher operating costs such as payroll and benefits, marketing expenses and credit card and other expenses attributable to growth in the segment.

- *Corporate/Other*. Adjusted EBITDA decreased $13.4 million to a loss of $89.9 million for the year ended December 31, 2012. Payroll and benefit costs increased $10.5 million as a result of higher medical costs and an increase in expenses for our retirement savings plans. In addition, in 2011, we recognized $1.2 million in the amortization of deferred gains in 2011 associated with sale-leaseback transactions that were fully amortized in April 2011.

Results of Continuing Operations

Year ended December 31, 2011 compared to the year ended December 31, 2010

	Year Ended December 31,		Change	
	2011	2010	$	%
	(in thousands, except percentages)			
Revenue:				
LoyaltyOne	$ 844,774	$ 799,534	$ 45,240	5.7%
Epsilon	847,136	613,374	233,762	38.1
Private Label Services and Credit	1,488,998	1,386,274	102,724	7.4
Corporate/Other	1,136	1,866	(730)	(39.1)
Eliminations	(8,757)	(9,627)	870	nm*
Total	$ 3,173,287	$ 2,791,421	$ 381,866	13.7%
Adjusted EBITDA [1]:				
LoyaltyOne	$ 217,083	$ 204,554	$ 12,529	6.1%
Epsilon	195,397	152,304	43,093	28.3
Private Label Services and Credit	678,334	530,021	148,313	28.0
Corporate/Other	(76,407)	(57,875)	(18,532)	32.0
Eliminations	(5,088)	(6,464)	1,376	nm*
Total	$ 1,009,319	$ 822,540	$ 186,779	22.7%
Stock compensation expense:				
LoyaltyOne	$ 7,202	$ 10,266	$ (3,064)	(29.8)%
Epsilon	11,816	9,481	2,335	24.6
Private Label Services and Credit	6,748	7,861	(1,113)	(14.2)
Corporate/Other	17,720	22,486	(4,766)	(21.2)
Total	$ 43,486	$ 50,094	$ (6,608)	(13.2)%
Depreciation and amortization:				
LoyaltyOne	$ 20,253	$ 23,823	$ (3,570)	(15.0)%
Epsilon	90,111	77,743	12,368	15.9
Private Label Services and Credit	35,480	35,164	316	0.9
Corporate/Other	7,309	6,496	813	12.5
Total	$ 153,153	$ 143,226	$ 9,927	6.9%
Operating income from continuing operations:				
LoyaltyOne	$ 189,628	$ 170,465	$ 19,163	11.2%
Epsilon	93,470	65,080	28,390	43.6
Private Label Services and Credit	636,106	486,996	149,110	30.6
Corporate/Other	(101,436)	(86,857)	(14,579)	16.8
Eliminations	(5,088)	(6,464)	1,376	nm*
Total	$ 812,680	$ 629,220	$ 183,460	29.2%
Adjusted EBITDA margin [2]:				
LoyaltyOne	25.7%	25.6%	0.1%	
Epsilon	23.1	24.8	(1.7)	
Private Label Services and Credit	45.6	38.2	7.4	
Total	31.8%	29.5%	2.3%	
Segment operating data:				
Private label statements generated	142,064	142,379	(315)	(0.2)%
Credit sales	$ 9,636,053	$ 8,773,436	$ 862,617	9.8%
Average credit card receivables	$ 4,962,503	$ 5,025,915	$ (63,412)	(1.3)%
AIR MILES reward miles issued	4,940,364	4,584,384	355,980	7.8%
AIR MILES reward miles redeemed	3,633,921	3,634,821	(900)	—%

(1) Adjusted EBITDA is equal to income from continuing operations, plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and amortization and amortization of purchased intangibles. For a reconciliation of adjusted EBITDA to income from continuing operations, the most directly comparable GAAP financial measure, see “Use of Non-GAAP Financial Measures” included in this report.

(2) Adjusted EBITDA margin is adjusted EBITDA divided by revenue. Management uses adjusted EBITDA margin to analyze the operating performance of the segments and the impact revenue growth has on operating expenses.

* not meaningful.

***Consolidated Operating Results*:**

Revenue. Total revenue increased $381.9 million, or 13.7%, to $3.2 billion for the year ended December 31, 2011 from $2.8 billion for the year ended December 31, 2010. The net increase was due to the following:

- *Transaction*. Revenue increased $4.9 million, or 1.7%, to $290.6 million for the year ended December 31, 2011 due to the following:
  - AIR MILES reward mile issuance fees, for which we provide marketing and administrative services, increased $20.6 million. Of this increase, $7.3 million was attributable to an increase in the Canadian foreign currency exchange rate, and $13.3 million was attributable to increases in AIR MILES reward miles issued over the past several quarters.
  - Servicing fees decreased $15.7 million primarily due to a decline in merchant fees of $20.3 million due to increased profit sharing and royalty payments to certain private label services and credit clients.
- *Redemption*. Revenue increased $28.9 million, or 5.3%, to $572.5 million for the year ended December 31, 2011. A favorable foreign currency exchange rate contributed $23.8 million, supplemented by higher breakage revenue attributable to an increase in AIR MILES reward miles issued.
- *Finance charges, net.* Revenue increased $117.6 million, or 9.2%, to $1.4 billion for the year ended December 31, 2011. This increase was driven by improvement in our gross yield of 270 basis points, offset in part by a 1.3% decline in average credit card receivables as a result of higher payment rates. The expansion in our gross yield was in part due to changes in cardholder terms made throughout 2010.
- *Database marketing fees and direct marketing.* Revenue increased $204.0 million, or 33.9%, to $806.5 million for the year ended December 31, 2011. The increase in revenue was driven by our acquisitions of Aspen in 2011 and the Direct Marketing Services and Database Marketing divisions of Equifax, Inc., collectively referred to as DMS, in 2010 as well as double digit growth in our marketing technology division. Marketing technology continues to build from recent client signings and expansion of services to existing clients with revenue increasing $58.8 million, or 16.2%. The Aspen acquisition contributed $135.8 million to database marketing fees and direct marketing revenue and, within our targeting sector, the DMS acquisition added $19.2 million to revenue.
- *Other revenue.* Revenue increased $26.5 million, or 35.3%, to $101.7 million for the year ended December 31, 2011, due to the Aspen acquisition, which added $26.8 million in revenue associated with strategic consulting initiatives.

Cost of operations. Cost of operations increased $266.5 million, or 17.2%, to $1.8 billion for the year ended December 31, 2011 as compared to $1.5 billion for the year ended December 31, 2010. The increase resulted from growth across each of our segments, including the following:

- Within the LoyaltyOne segment, cost of operations increased $29.6 million, of which $25.3 million relates to the increase in the foreign currency exchange rate to $1.01 for the year ended December 31, 2011 from $0.97 for the year ended December 31, 2010. Excluding the impact of foreign currency exchange, cost of operations increased $4.3 million due to increases in costs associated with our international initiatives in 2011, offset in part by certain gains in securities realized in 2010 but not in 2011.
- Within the Epsilon segment, cost of operations increased $193.0 million due to the Aspen and DMS acquisitions, which added $137.1 million and $15.0 million to cost of operations, respectively. Excluding these acquisitions, cost of operations increased $40.9 million, which was associated with the growth of the marketing technology business where payroll related costs increased $43.5 million.
- Within the Private Label Services and Credit segment, cost of operations increased by $40.8 million from increases in payroll and benefits of $17.0 million resulting from growth and an increase in incentive compensation due to over-performance of the segment. Credit card expenses, including marketing and collection fees and other costs increased $11.3 million and $2.9 million, respectively, due to an increase in credit sales and volumes.

Provision for loan loss. Provision for loan loss decreased $87.5 million, or 22.6%, to $300.3 million for the year ended December 31, 2011 as compared to $387.8 million for the year ended December 31, 2010. The provision was impacted by both a decline in the rate and volume of credit card receivables. Average credit card receivables declined 1.3% as a result of higher payment rates. Additionally, the net charge-off rate improved 200 basis points to 6.9% for the year ended December 31, 2011 as compared to 8.9% for 2010. The decline in the net charge-off rate reflected the continued improvement in credit quality of the credit card receivables. Net charge-off rates continue to trend lower and delinquency rates, historically a good predictor of future losses, improved to 4.4% of principal credit card receivables at December 31, 2011 from 5.4% at December 31, 2010.

General and administrative. General and administrative expenses increased $9.5 million, or 11.1%, to $95.3 million for the year ended December 31, 2011 as compared to $85.8 million for the year ended December 31, 2010. The increase was driven by higher medical and benefit costs and incentive compensation due to company performance.

Depreciation and other amortization. Depreciation and other amortization increased $2.6 million, or 3.9%, to $70.4 million for the year ended December 31, 2011 as compared to $67.8 million for the year ended December 31, 2010 due to additional capital expenditures and the Aspen acquisition.

Amortization of purchased intangibles. Amortization of purchased intangibles increased $7.3 million, or 9.7%, to $82.7 million for the year ended December 31, 2011 as compared to $75.4 million for the year ended December 31, 2010. The increase relates to $13.4 million and $5.3 million of amortization associated with the intangible assets acquired in the Aspen and DMS acquisitions, respectively, offset in part by certain fully amortized intangible assets at Epsilon.

Interest expense, net. Total interest expense, net decreased $19.7 million, or 6.2%, to $298.6 million for the year ended December 31, 2011 from $318.3 million for the year ended December 31, 2010. The decrease was due to the following:

- *Securitization funding costs.* Securitization funding costs decreased $28.4 million to $126.7 million primarily as a result of changes in the valuation in our interest rate swaps. In the year ended December 31, 2011, we incurred a gain of $31.7 million in the valuation of our interest rate swaps as compared to a gain of $8.7 million in the prior year, which resulted in a net benefit of $23.0 million from the valuation of our interest rate swaps. Interest on asset-backed securities debt decreased $9.8 million due to lower average borrowings for 2011 versus 2010.

- *Interest expense on deposits.* Interest on deposits decreased $6.4 million to $23.1 million due to lower average rates and lower average borrowings for the year ended December 31, 2011 as compared to the year ended December 31, 2010.

- *Interest expense on long-term and other debt, net.* Interest expense on long-term and other debt, net increased $15.0 million to $148.8 million due to a $7.7 million increase in the amortization of imputed interest associated with the convertible senior notes as compared to 2010, an increase in amortization of debt issuance costs of $4.0 million, in part due to a $2.6 million write-off of unamortized debt costs associated with the early extinguishment of term loans, and increased borrowings associated in part with the Aspen acquisition.

Taxes. Income tax expense increased $83.5 million to $198.8 million for the year ended December 31, 2011 from $115.3 million for 2010 due to an increase in taxable income. The effective tax rate increased to 38.7% for the year ended December 31, 2011 as compared to 37.1% for the year ended December 31, 2010. The 2011 effective rate increase was due to the write-off of certain deferred tax assets where the realization of such deferred tax assets was determined not to meet the more likely than not threshold. In addition, in 2010, we benefitted from the release of a previously recorded uncertain tax position related to a federal capital loss carryforward.

Loss from discontinued operations, net of taxes. There was no loss from discontinued operations for the year ended December 31, 2011. The $1.9 million loss recognized in the year ended December 31, 2010 was due to additional expense related to the terminated operations of our credit program for web and catalog retailer VENUE.

Segment Revenue and Adjusted EBITDA:

Revenue. Total revenue increased $381.9 million, or 13.7%, to $3.2 billion for the year ended December 31, 2011 from $2.8 billion for the year ended December 31, 2010. The net increase was due to the following:

- *LoyaltyOne*. Revenue increased $45.2 million, or 5.7%, to $844.8 million for the year ended December 31, 2011. Revenue benefited from a favorable foreign currency exchange rate, which represented $34.7 million of the increase. In Canadian dollars, revenue for the AIR MILES Reward Program increased CAD $12.8 million, or 1.6%. Revenue from issuance fees, for which we provide marketing and administrative services, increased CAD $13.3 million due to increases in the total number of AIR MILES reward miles issued. Redemption revenue increased a net CAD $6.8 million, or 1.2%. Although AIR MILES reward miles redeemed were flat, issuance growth over the past several quarters has increased revenue associated with breakage. These increases were offset by (1) a decline in investment revenue of CAD $4.5 million due to lower interest earned on investments and (2) a decrease in other consulting revenue.

- *Epsilon*. Revenue increased $233.8 million, or 38.1%, to $847.1 million for the year ended December 31, 2011. Marketing technology revenue continues to build from client signings in 2010 and 2011 and the expansion of services to new and existing clients, growing $58.8 million, or 16.2%. Additionally, the Aspen and DMS acquisitions added $162.6 million and $19.3 million to revenue, respectively.

- *Private Label Services and Credit.* Revenue increased $102.7 million, or 7.4%, to $1.5 billion for the year ended December 31, 2011. Finance charges and late fees increased by $117.6 million driven by an increase in our gross yield of 270 basis points, offset in part by a 1.3% decline in average credit card receivables. The expansion in our gross yield was in part due to changes in cardholder terms made throughout 2010, which positively impacted our gross yield for the year ended December 31, 2011. This increase was partially offset by a $15.0 million reduction in transaction revenue as a result of lower merchant fees.

- *Corporate/Other.* Revenue decreased slightly to $1.1 million for the year ended December 31, 2011, as we are currently earning a nominal amount of revenue related to sublease agreements.

Adjusted EBITDA. For purposes of the discussion below, adjusted EBITDA is equal to net income plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and other amortization and amortization of purchased intangibles. Adjusted EBITDA margin is adjusted EBITDA divided by revenue. Adjusted EBITDA increased $186.8 million, or 22.7%, to $1.0 billion for the year ended December 31, 2011 from $822.5 million for the year ended December 31, 2010. The increase was due to the following:

- *LoyaltyOne*. Adjusted EBITDA increased $12.5 million, or 6.1%, to $217.1 million for the year ended December 31, 2011, helped by a favorable foreign currency exchange rate, which added $9.6 million to adjusted EBITDA. Adjusted EBITDA in local currency (CAD) for the AIR MILES Reward Program increased CAD $9.3 million, or 4.2%, with adjusted EBITDA margin increasing to 25.7% from 25.6%. Adjusted EBITDA benefited from the growth in AIR MILES reward miles issued and increased margins on redemptions, which were offset by both the runoff of amortized revenue and increases in international expansion costs.

- *Epsilon*. Adjusted EBITDA increased $43.1 million, or 28.3%, to $195.4 million for the year ended December 31, 2011. Adjusted EDITDA was positively impacted by double digit growth in our strategic database business and the Aspen acquisition, which added $23.2 million to adjusted EBITDA. Adjusted EBITDA margin decreased to 23.1% for the year ended December 31, 2011 from 24.8% for the year ended December 31, 2010 due to a shift in revenue mix attributable to the Aspen acquisition.

- *Private Label Services and Credit*. Adjusted EBITDA increased $148.3 million, or 28.0%, to $678.3 million for the year ended December 31, 2011 and adjusted EBITDA margin increased to 45.6% for the year ended December 31, 2011 compared to 38.2% for the year ended December 31, 2010. Adjusted EBITDA was positively impacted by the increase in our gross yield as described above and a decline in the provision for loan loss. The net charge-off rate for the year ended December 31, 2011 was 6.9% as compared to 8.9% in 2010. The decline in the net charge-off rate reflected the continued improvement in credit quality of the credit card receivables. Net charge-off rates continue to trend lower and delinquency rates, historically a good predictor of future losses, improved to 4.4% of principal credit card receivables at December 31, 2011 from 5.4% at December 31, 2010.

- *Corporate/Other.* Adjusted EBITDA decreased $18.5 million to a loss of $76.4 million for the year ended December 31, 2011 related to increases in medical and benefit costs, incentive compensation and legal and consulting costs.

Asset Quality

Our delinquency and net charge-off rates reflect, among other factors, the credit risk of our private label credit card receivables, the success of our collection and recovery efforts, and general economic conditions.

Delinquencies. A credit card account is contractually delinquent when we do not receive the minimum payment by the specified due date on the cardholder's statement. Our policy is to continue to accrue interest and fee income on all credit card accounts beyond 90 days, except in limited circumstances, until the credit card account balance and all related interest and other fees are paid or charged off, typically at 180 days delinquent. When an account becomes delinquent, a message is printed on the credit cardholder's billing statement requesting payment. After an account becomes 30 days past due, a proprietary collection scoring algorithm automatically scores the risk of the account becoming further delinquent. The collection system then recommends a collection strategy for the past due account based on the collection score and account balance and dictates the contact schedule and collections priority for the account. If we are unable to make a collection after exhausting all in-house collection efforts, we may engage collection agencies and outside attorneys to continue those efforts.

The following table presents the delinquency trends of our credit card portfolio:

	December 31, 2012	% of Total	December 31, 2011	% of Total
	(In thousands, except percentages)			
Receivables outstanding - principal	$ 7,097,951	100%	$ 5,408,862	100%
Principal receivables balances contractually delinquent:				
31 to 60 days	100,479	1.4%	78,272	1.4%
61 to 90 days	62,546	0.9	51,709	1.0
91 or more days	120,163	1.7	105,626	2.0
Total	$ 283,188	4.0%	$ 235,607	4.4%

Net Charge-Offs. Our net charge-offs include the principal amount of losses from cardholders unwilling or unable to pay their account balances, as well as bankrupt and deceased credit cardholders, less recoveries and exclude charged-off interest, fees and fraud losses. Charged-off interest and fees reduce finance charges, net while fraud losses are recorded as an expense. Credit card receivables, including unpaid interest and fees, are charged-off at the end of the month during which an account becomes 180 days contractually past due, except in the case of customer bankruptcies or death. Credit card receivables, including unpaid interest and fees, associated with customer bankruptcies or death are charged-off at the end of each month subsequent to 60 days after the receipt of notification of the bankruptcy or death, but in any case, not later than the 180-day contractual time frame.

The net charge-off rate is calculated by dividing net charge-offs of principal receivables for the period by the average credit card receivables for the period. Average credit card receivables represent the average balance of the cardholder receivables at the beginning of each month in the periods indicated. The following table presents our net charge-offs for the periods indicated.

	Year Ended December 31,		
	2012	2011	2010
	(In thousands, except percentages)		
Average credit card receivables	$ 5,927,562	$ 4,962,503	$ 5,025,915
Net charge-offs of principal receivables	282,842	340,064	448,587
Net charge-offs as a percentage of average credit card receivables [1]	4.8%	6.9%	8.9%

(1) We acquired the credit card receivables of The Bon-Ton Stores, Inc. and The Talbots, Inc. in July 2012 and August 2012, respectively. Under GAAP, losses associated with purchased credit card receivables are reflected in the fair value of the purchased credit card receivables and not reported as net charge-offs. The net charge-off rate would have been 5.0% for the year ended December 31, 2012 if losses associated with the acquired credit card receivables had been reported as net charge-offs.

Liquidity and Capital Resources

Operating Activities. We generated cash flow from operating activities of $1.1 billion and $1.0 billion for the years ended December 31, 2012 and 2011, respectively. The increase in operating cash flows in 2012 was primarily due to increased profitability for the year ended December 31, 2012 as compared to 2011.

We utilize our cash flow from operations for ongoing business operations, repayments of revolving or other debt, acquisitions and capital expenditures.

Investing Activities. Cash used in investing activities was $2.7 billion and $1.0 billion for the years ended December 31, 2012 and 2011, respectively. Significant components of investing activities are as follows:

- *Credit Card Receivables Funding*. Cash decreased $1.4 billion for the year ended December 31, 2012 due to growth in our credit card receivables as compared to $578.1 million in the prior year.

- *Purchase of Credit Card Portfolios*. Cash decreased $780.0 million for the year ended December 31, 2012 due to the acquisition of existing private label credit card portfolios from Pier 1 Imports, Premier Designs, The Bon-Ton Stores, Inc. and The Talbots, Inc. During the year ended December 31, 2011, cash decreased $68.6 million due to the acquisition of existing private label credit card portfolios from J.Jill and Marathon.

- *Cash Collateral, Restricted*. Cash increased $99.0 million for the year ended December 31, 2012 as compared to $22.0 million for the year ended December 31, 2011 due to the maturing of asset-backed securities debt, as the restricted cash is released upon repayment and a decrease in excess funding deposits in 2012.

- *Payments for Acquired Businesses, Net of Cash*. For the year ended December 31, 2012, we utilized cash of $451.8 million for the HMI acquisition, which was completed on November 30, 2012, and $12.2 million for the Advecor acquisition, which was completed on December 31, 2012. For the year ended December 31, 2011, we utilized $359.1 million for the Aspen acquisition, which was completed on May 31, 2011.

- *Capital Expenditures*. Our capital expenditures increased for the year ended December 31, 2012 to $116.5 million as compared to $73.5 million for 2011 due to investments in technology, including enhancements to support future growth. We anticipate capital expenditures not to exceed approximately 3.0% of annual revenue for the foreseeable future.

Financing Activities. Cash provided by financing activities was $2.2 billion for the year ended December 31, 2012 as compared to cash provided by financing activities of $109.3 million for the year ended December 31, 2011. Our financing activities during the year ended December 31, 2012 relate primarily to borrowings in the form of the additional term loans under the 2011 Credit Facility and the issuance of senior notes and asset-backed securities in 2012, that were offset by scheduled repayments on the 2011 Credit Facility and asset-backed securities that matured in 2012. Financing activities also included borrowings and repayments of deposits and repurchases of our common stock.

Liquidity Sources. In addition to cash generated from operating activities, our primary sources of liquidity include our credit card securitization program, deposits issued by Comenity Bank and Comenity Capital Bank, our credit agreement and issuances of equity securities. In addition to our efforts to renew and expand our current liquidity sources, we continue to seek new funding sources. We have also expanded our brokered certificates of deposits and our money market deposits to supplement liquidity for our credit card receivables.

As of December 31, 2012, we had no borrowings under our credit facility, with total availability at $915.7 million. Our total leverage ratio, as defined in our credit agreement, was 2.3 to 1 at December 31, 2012, as compared to the maximum covenant ratio of 3.5 to 1.

We believe that internally generated funds and other sources of liquidity discussed above will be sufficient to meet working capital needs, capital expenditures, and other business requirements for at least the next 12 months, including the repayment of the $805.0 million Convertible Senior Notes due 2013.

Debt

Credit Agreement. We entered into a credit agreement, dated May 24, 2011, or the Credit Agreement, among us as borrower, and ADS Alliance Data Systems, Inc., ADS Foreign Holdings, Inc., Alliance Data Foreign Holdings, Inc., Epsilon Marketing Services, LLC, Epsilon Data Management LLC, Comenity LLC and Alliance Data FHC, Inc., as guarantors, with various agents and banks. The Credit Agreement provided for a $792.5 million term loan, or the 2011 Term Loan, and a $792.5 million revolving line of credit, or the 2011 Credit Facility, with a U.S. $65.0 million sublimit for Canadian dollar borrowings and a $65.0 million sublimit for swing line loans.

On March 30, 2012, we entered into a second amendment to the Credit Agreement, through which we increased our 2011 Credit Facility by $125.0 million to $917.5 million and borrowed additional term loans in the aggregate principal amount of $125.5 million.

The Credit Agreement also includes an uncommitted accordion feature to up to $915.0 million in the aggregate allowing for future incremental borrowings, subject to certain conditions, for a maximum total facility size of $2.5 billion.

Convertible Senior Notes due 2013. In the third quarter of 2008, we issued $805.0 million aggregate principal amount of convertible senior notes maturing in August 2013, or the Convertible Senior Notes due 2013, which included an over-allotment of $105.0 million. Holders of the Convertible Senior Notes due 2013 have the right to require us to repurchase for cash all or some of their Convertible Senior Notes due 2013 upon the occurrence of certain fundamental changes.

Convertible Senior Notes due 2014. In June 2009, we issued $345.0 million aggregate principal amount of convertible senior notes maturing in May 2014, or the Convertible Senior Notes due 2014, which included an over-allotment of $45.0 million. Holders of the Convertible Senior Notes due 2014 have the right to require us to repurchase for cash all or some of their Convertible Senior Notes due 2014 upon the occurrence of certain fundamental changes.

Both the Convertible Senior Notes due 2013 and the Convertible Senior Notes due 2014 are convertible at the option of the holder based on the condition that the common stock trading price exceeded 130% of the applicable conversion price. In the third and fourth quarters of 2012, a de minimis amount of convertible senior notes were surrendered for conversion and, in each case, either have been or will be settled in cash following the completion of the applicable cash settlement averaging period.

Senior Notes Due 2017. In November 2012, we issued and sold $400 million aggregate principal amount of 5.250% senior notes due December 1, 2017, or the Senior Notes due 2017, at an issue price of 98.912% of the aggregate principal amount. The Senior Notes due 2017 accrue interest on the principal amount at the rate of 5.250% per annum from November 20, 2012, payable semiannually in arrears, on June 1 and December 1 of each year, beginning on June 1, 2013. The payment obligations under the Senior Notes due 2017 are governed by an indenture dated November 20, 2012. The Senior Notes due 2017 are unsecured and are guaranteed on a senior unsecured basis by certain of our existing and future domestic subsidiaries that guarantee our Credit Agreement.

Senior Notes Due 2020. In March 2012, we issued and sold $500 million aggregate principal amount of 6.375% senior notes due April 1, 2020, or the Senior Notes due 2020. The Senior Notes due 2020 accrue interest on the principal amount at the rate of 6.375% per annum from March 29, 2012, payable semiannually in arrears, on April 1 and October 1 of each year, beginning on October 1, 2012. The payment obligations under the Senior Notes due 2020 are governed by an indenture dated March 29, 2012. The Senior Notes due 2020 are unsecured and are guaranteed on a senior unsecured basis by certain of our existing and future domestic subsidiaries that guarantee our Credit Agreement.

As of December 31, 2012, we were in compliance with our debt covenants.

See Note 10, “Debt,” of the Notes to Consolidated Financial Statements for additional information regarding our debt.

Deposits. We utilize money market deposits and certificates of deposit to finance the operating activities and fund securitization enhancement requirements of our bank subsidiaries, Comenity Bank and Comenity Capital Bank.

Beginning January 1, 2012, Comenity Bank and Comenity Capital Bank offered a demand deposit program through contractual arrangements with securities brokerage firms. As of December 31, 2012, Comenity Bank and Comenity Capital Bank had issued $254.3 million in money market deposits with interest rates that range from 0.01% to 0.26%. Money market deposits are redeemable on demand by the customer and, as such, have no scheduled maturity date.

Comenity Bank and Comenity Capital Bank issue certificates of deposit in denominations of $100,000 and $1,000, respectively, in various maturities ranging between two months and seven years and with effective annual interest rates ranging from 0.20% to 5.25%. As of December 31, 2012, we had $2.0 billion of certificates of deposit outstanding. Certificate of deposit borrowings are subject to regulatory capital requirements.

Securitization Program. We sell a majority of the credit card receivables originated by Comenity Bank to WFN Credit Company, LLC, which in turn sells them to World Financial Network Credit Card Master Trust, World Financial Network Credit Card Master Note Trust, World Financial Network Credit Card Master Note Trust II and World Financial Network Credit Card Master Trust III, or collectively, the WFN Trusts, as part of our credit card securitization program, which has been in existence since January 1996. We also sell our credit card receivables originated by Comenity Capital Bank to World Financial Capital Credit Company, LLC, which in turn sells them to World Financial Capital Master Note Trust, or the WFC Trust. These securitization programs are the primary vehicle through which we finance Comenity Bank’s and Comenity Capital Bank’s credit card receivables.

As of December 31, 2012, the WFN Trusts and the WFC Trust had approximately $6.6 billion of securitized credit card receivables. Securitizations require credit enhancements in the form of cash, spread deposits, additional receivables and subordinated classes. The credit enhancement is principally based on the outstanding balances of the series issued by the WFN Trusts and the WFC Trust and by the performance of the private label credit cards in these credit card securitization trusts.

Historically, we have used both public and private term asset-backed securities transactions as well as private conduit facilities as sources of funding for our credit card receivables. Private conduit facilities have been used to accommodate seasonality needs and to bridge to completion of asset-backed securitization transactions.

We have secured and continue to secure the necessary commitments to fund our portfolio of securitized credit card receivables originated by Comenity Bank and Comenity Capital Bank. However, certain of these commitments are short-term in nature and subject to renewal. There is not a guarantee that these funding sources, when they mature, will be renewed on similar terms or at all as they are dependent on the asset-backed securitization markets at the time.

At December 31, 2012, we had $4.1 billion of asset-backed securities debt – owed to securitization investors, of which $1.5 billion is due within the next 12 months.

The following table shows the maturities of borrowing commitments as of December 31, 2012 for the WFN Trusts and the WFC Trust by year:

	2013	2014	2015	2016	2017 and Thereafter	Total
	(In thousands)					
Term notes	$ 822,339	$ 250,000	$ 393,750	$ 100,000	$ 1,383,166	$ 2,949,255
Conduit facilities [1]	705,000	1,200,000	—	—	—	1,905,000
Total [2]	$ 1,527,339	$ 1,450,000	$ 393,750	$ 100,000	$ 1,383,166	$ 4,854,255

(1) Amount represents borrowing capacity, not outstanding borrowings.

(2) Total amounts do not include $1.0 billion of debt issued by the credit card securitization trusts, which was retained by us and has been eliminated in the consolidated financial statements.

Early amortization events as defined within each asset-backed securitization transaction are generally driven by asset performance. We do not believe it is reasonably likely for an early amortization event to occur due to asset performance. However, if an early amortization event were declared, the trustee of the particular credit card securitization trust would retain the interest in the receivables along with the excess interest income that would otherwise be paid to our bank subsidiary until the credit card securitization investors were fully repaid. The occurrence of an early amortization event would significantly limit or negate our ability to securitize additional credit card receivables.

See Note 10, “Debt,” of the Notes to Consolidated Financial Statements for additional information regarding our asset-backed securities debt.

In February 2013, World Financial Network Credit Card Master Note Trust issued $500.0 million of term asset-backed securities to investors. The offering consisted of $375.0 million of Class A Series 2013-A asset-backed term notes that have a fixed interest rate of 1.61% per year and mature in February 2018. In addition, we retained an aggregate of $125.0 million of subordinated classes of the term asset-backed notes that will be eliminated from our consolidated financial statements.

Repurchase of Equity Securities. During 2012, 2011, and 2010, we repurchased approximately 1.0 million, 2.9 million, and 2.5 million shares of our common stock for an aggregate amount of $137.4 million, $240.9 million, and $148.7 million, respectively. We have Board authorization to acquire $400.0 million of our common stock through December 31, 2013.

Contractual Obligations. The following table highlights, as of December 31, 2012, our contractual obligations and commitments to make future payments by type and period:

	2013	2014 & 2015	2016 & 2017	2018 & Thereafter	Total
	(In thousands)				
Deposits [1]	$ 1,113,143	$ 753,248	$ 343,666	$ 72,152	$ 2,282,209
Asset-backed securities debt [1]	1,557,109	1,275,208	488,157	1,085,211	4,405,685
2011 Credit Facility [1]	—	—	—	—	—
2011 Term Loan [1]	53,868	127,819	781,615	—	963,302
Senior notes [1]	52,875	105,750	505,750	571,697	1,236,072
Convertible senior notes [1]	829,100	351,053	—	—	1,180,153
Operating leases	63,532	100,397	73,798	56,737	294,464
Capital leases	14	—	—	—	14
Software licenses	2,281	—	—	—	2,281
ASC 740 obligations [2]	—	—	—	—	—
Purchase obligations [3]	109,184	77,900	73,694	49,187	309,965
	$ 3,781,106	$ 2,791,375	$ 2,266,680	$ 1,834,984	$ 10,674,145

(1) The deposits, asset-backed securities debt, 2011 Credit Facility, 2011 Term Loan, senior notes and convertible senior notes represent our estimated debt service obligations, including both principal and interest. Interest was based on the interest rates in effect as of December 31, 2012, applied to the contractual repayment period.

(2) Does not reflect unrecognized tax benefits of $89.0 million, of which the timing remains uncertain.

(3) Purchase obligations are defined as an agreement to purchase goods or services that is enforceable and legally binding and specifying all significant terms, including the following: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and approximate timing of the transaction. The purchase obligation amounts disclosed above represent estimates of the minimum for which we are obligated and the time period in which cash outflows will occur. Purchase orders and authorizations to purchase that involve no firm commitment from either party are excluded from the above table. Purchase obligations include purchase commitments under our AIR MILES Reward Program, minimum payments under support and maintenance contracts and agreements to purchase other goods and services.

We believe that we will have access to sufficient resources to meet these commitments.

Inflation and Seasonality

Although we cannot precisely determine the impact of inflation on our operations, we do not believe that we have been significantly affected by inflation. For the most part, we have relied on operating efficiencies from scale and technology, as well as decreases in technology and communication costs, to offset increased costs of employee compensation and other operating expenses. Our revenues, earnings and cash flows are affected by increased consumer spending patterns leading up to and including the holiday shopping period in the third and fourth quarter and, to a lesser extent, during the first quarter as credit card balances are paid down.

Legislative and Regulatory Matters

In October 2012, our bank subsidiaries, World Financial Network Bank and World Financial Capital Bank, changed their names to Comenity Bank and Comenity Capital Bank, respectively.

During the third quarter of 2010, Comenity Bank changed its location to Wilmington, Delaware through the merger of the bank with an interim banking association organized under the laws of the United States and located in Wilmington, Delaware. None of the bank's assets, liabilities or contemplated business purposes changed as a result of the merger. Effective August 1, 2011, Comenity Bank converted from a national banking association and limited purpose credit card bank to a Delaware State FDIC-insured bank and limited purpose credit card bank. Comenity Bank is regulated, supervised and examined by the State of Delaware and the FDIC.

Comenity Bank is subject to various regulatory capital requirements administered by the State of Delaware and the FDIC. Comenity Capital Bank is subject to regulatory capital requirements administered by both the FDIC and the State of Utah. Failure to meet minimum capital requirements can trigger certain mandatory and possibly additional discretionary actions by regulators. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, both Comenity Bank and Comenity Capital Bank must meet specific capital guidelines that involve quantitative measures of its assets and liabilities as calculated under regulatory accounting practices. The capital amounts and classification are also subject to qualitative judgments by the regulators about components, risk weightings and other factors. Both Comenity Bank and Comenity Capital Bank are limited in the amounts that they can pay as dividends to us.

Quantitative measures established by regulations to ensure capital adequacy require Comenity Bank and Comenity Capital Bank to maintain minimum amounts and ratios of total and Tier 1 capital to risk weighted assets and of Tier 1 capital to average assets. Under the regulations, a "well capitalized" institution must have a Tier 1 capital ratio of at least 6%, a total capital ratio of at least 10% and a leverage ratio of at least 5% and not be subject to a capital directive order. An "adequately capitalized" institution must have a Tier 1 capital ratio of at least 4%, a total capital ratio of at least 8% and a leverage ratio of at least 4%, but 3% is allowed in some cases. Under these guidelines, Comenity Bank and Comenity Capital Bank are considered well capitalized. As of December 31, 2012, Comenity Capital Bank's Tier 1 capital ratio was 16.4%, total capital ratio was 17.7% and leverage ratio was 16.5%, and Comenity Capital Bank was not subject to a capital directive order. As of December 31, 2012, Comenity Bank's Tier 1 capital ratio was 14.3%, total capital ratio was 15.6% and leverage ratio was 14.7%, and Comenity Bank was not subject to a capital directive order.

On April 7, 2010, the SEC proposed revised rules for asset-backed securities offerings that, if adopted, would substantially change the disclosure, reporting and offering process for public and private offerings of asset-backed securities, including those offered under our credit card securitization program. On July 26, 2011, the SEC re-proposed certain rules relating to the registrant and transaction requirements for the shelf registration of asset-backed securities. If the revised rules for asset-backed securities are adopted in their current form, issuers of publicly offered asset-backed securities would be required to disclose more information regarding the underlying assets. In addition, the proposals would alter the safe-harbor standards for the private placement of asset-backed securities to impose informational requirements similar to those that would apply to registered public offerings of such securities. The SEC also issued an advance notice of proposed rulemaking relating to the exemptions that our credit card securitization trusts relied on in our credit card securitization program to avoid registration as investment companies. The form that these rules may ultimately take is uncertain at this time, but such rules may impact our ability or desire to issue asset-backed securities in the future.

On March 30, 2011, the SEC, the FDIC, the Board of Governors of the Federal Reserve System and certain other banking regulators proposed regulations that would mandate a five percent risk retention requirement for securitizations. We cannot predict at this time whether our existing credit card securitization programs will satisfy the new regulatory requirements or whether structural changes to those programs will be necessary. Such risk retention requirements may impact our ability or desire to issue asset-backed securities in the future.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Market Risk

Market risk is the risk of loss from adverse changes in market prices and rates. Our primary market risks include interest rate risk, credit risk, foreign currency exchange rate risk and redemption reward risk.

Interest Rate Risk. Interest rate risk affects us directly in our lending and borrowing activities. Our total borrowing costs were approximately $291.5 million for 2012. To manage our risk from market interest rates, we actively monitor the interest rates and the interest sensitive components to minimize the impact that changes in interest rates have on the fair value of assets, net income and cash flow. To achieve this objective, we manage our exposure to fluctuations in market interest rates by matching asset and liability repricings and through the use of fixed-rate debt instruments to the extent that reasonably favorable rates are obtainable with such arrangements. In addition, through the WFN Trusts and the WFC Trust, we enter into derivative instruments such as interest rate swaps and interest rate caps to mitigate our interest rate risk on related financial instruments or to lock the interest rate on a portion of our variable debt. We do not enter into derivative or interest rate transactions for trading or other speculative purposes.

The approach we use to quantify interest rate risk is a sensitivity analysis, which we believe best reflects the risk inherent in our business. This approach calculates the impact on pre-tax income from an instantaneous and sustained increase in interest rates of 1.0%. In 2012, a 1.0% increase in interest rates would have resulted in a decrease to fiscal year pre-tax income of approximately $12.3 million. Conversely, a corresponding decrease in interest rates would have resulted in a comparable increase to pre-tax income. Our use of this methodology to quantify the market risk of financial instruments should not be construed as an endorsement of its accuracy or the appropriateness of the related assumptions.

Credit Risk. We are exposed to credit risk relating to the credit card loans we make to our clients' customers. Our credit risk relates to the risk that consumers using the private label credit cards that we issue will not repay their revolving credit card loan balances. To minimize our risk of credit card loan write-offs, we have developed automated proprietary scoring technology and verification procedures to make risk-based origination decisions when approving new accountholders, establishing their credit limits and applying our risk-based pricing. We also utilize a proprietary collection scoring algorithm to assess accounts for collections efforts if they become delinquent; after exhausting all in-house collection efforts, we may engage collection agencies and outside attorneys to continue those efforts.

Foreign Currency Exchange Rate Risk. We are exposed to fluctuations in the exchange rate between the U.S. and the Canadian dollar through our significant Canadian operations. We generally do not hedge any of our net investment exposure in our Canadian operations. A 10% increase in the strength of the Canadian dollar versus the U.S. dollar would have resulted in an increase in pre-tax income of $22.3 million as of December 31, 2012. Conversely, a corresponding decrease in the strength of the Canadian dollar versus the U.S. dollar would result in a comparable decrease to pre-tax income.

Redemption Reward Risk. Through our AIR MILES Reward Program, we are exposed to potentially increasing reward costs associated primarily with travel rewards. To minimize the risk of rising travel reward costs, we:

- have multi-year supply agreements with several Canadian, U.S. and international airlines;
- are seeking new supply agreements with additional airlines;
- periodically alter the total mix of rewards available to collectors with the introduction of new merchandise rewards, which are typically lower cost per AIR MILES reward mile than air travel;
- allow collectors to obtain certain travel rewards using a combination of AIR MILES reward miles and cash or cash alone in addition to using AIR MILES reward miles alone; and
- periodically adjust the number of AIR MILES reward miles required to be redeemed to obtain a reward.

A 10% increase in the cost of rewards to satisfy redemptions would have resulted in a decrease in pre-tax income of $43.9 million, as of December 31, 2012. Conversely, a corresponding decrease in the cost of rewards to satisfy redemptions would result in a comparable increase to pre-tax income.

Item 8. Financial Statements and Supplementary Data.

Our consolidated financial statements begin on page F-1 of this Form 10-K.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

As of December 31, 2012, we carried out an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 of the Securities Exchange Act of 1934. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of December 31, 2012, our disclosure controls and procedures are effective. Disclosure controls and procedures are controls and procedures designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and include controls and procedures designed to ensure that information we are required to disclose in such reports is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal controls over financial reporting are designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree or compliance with the policies or procedures may deteriorate.

Our evaluation of and conclusion on the effectiveness of internal control over financial reporting as of December 31, 2012 did not include the internal controls for the acquisition of HMI and Advecor, because of the timing of the acquisitions, which were completed on November 30, 2012 and December 31, 2012, respectively. As of December 31, 2012, HMI's financial statements constitute approximately $562.6 million of total assets, $31.0 million of revenues and $1.5 million of pre-tax income for the year then ended. As of December 31, 2012, Advecor's financial statements constitute approximately $13.4 million of total assets. In the fourth quarter of 2013, we will expand our evaluation of the effectiveness of the internal controls over financial reporting to include HMI and Advecor.

Under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of internal control over financial reporting. In conducting this evaluation, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control—Integrated Framework*. Based on this evaluation, management, with the participation of the Chief Executive Officer and Chief Financial Offer, concluded that our internal control over financial reporting was effective as of December 31, 2012.

The effectiveness of internal control over financial reporting as of December 31, 2012, has been audited by Deloitte & Touche LLP, the independent registered public accounting firm who also audited our consolidated financial statements. Deloitte & Touche's attestation report on the effectiveness of our internal control over financial reporting appears on page F-3.

There have been no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) during the quarter ended December 31, 2012 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B.Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

Incorporated by reference to the Proxy Statement for the 2013 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2012.

Item 11. Executive Compensation.

Incorporated by reference to the Proxy Statement for the 2013 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2012.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

Incorporated by reference to the Proxy Statement for the 2013 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2012.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Incorporated by reference to the Proxy Statement for the 2013 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2012.

Item 14. Principal Accounting Fees and Services.

Incorporated by reference to the Proxy Statement for the 2013 Annual Meeting of our stockholders, which will be filed with the SEC not later than 120 days after December 31, 2012.

PART IV

Item 15. Exhibits, Financial Statement Schedules.

a) The following documents are filed as part of this report:

(1) Financial Statements

(2) Financial Statement Schedule

(3) The following exhibits are filed as part of this Annual Report on Form 10-K or, where indicated, were previously filed and are hereby incorporated by reference.

Exhibit No.	Description
3.1	Second Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit No. 3.1 to our Registration Statement on Form S-1 filed with the SEC on March 3, 2000, File No. 333-94623).
3.2	Third Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit No. 3.1 to our Current Report on Form 8-K, filed with the SEC on December 19, 2011, File No. 001-15749).
4	Specimen Certificate for shares of Common Stock of the Registrant (incorporated by reference to Exhibit No. 4 to our Quarterly Report on Form 10-Q, filed with the SEC on August 8, 2003, File No. 001-15749).
10.1	Office Lease between Nodenble Associates, LLC and ADS Alliance Data Systems, Inc., dated as of October 1, 2009 (incorporated by reference to Exhibit No. 10.1 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).
10.2	Fourth Amendment to Office Lease between FSP One Legacy Circle LLC (as successor-in-interest to Nodenble Associates, LLC) and ADS Alliance Data Systems, Inc. dated as of June 15, 2011 (incorporated by reference to Exhibit No. 10.2 to our Annual Report on Form 10-K, filed with the SEC on February 27, 2012, File No. 001-15749).
10.3	Lease Agreement, dated as of May 19, 2010 between Brandywine Operating Partnership, L.P. and ADS Alliance Data Systems, Inc. (incorporated by reference to Exhibit No. 10.13 to our Quarterly Report on Form 10-Q, filed with the SEC on August 9, 2010, File No. 001-15749).
10.4	Office Lease between Office City, Inc. and World Financial Network National Bank, dated December 24, 1986, and amended January 19, 1987, May 11, 1988, August 4, 1989 and August 18, 1999 (incorporated by reference to Exhibit No. 10.17 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.5	Fifth Amendment to Office Lease between Office City, Inc. and World Financial Network National Bank, dated March 29, 2004 (incorporated by reference to Exhibit 10.6 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2008, File No. 001-15749).
10.6	Lease Agreement by and between Continental Acquisitions, Inc. and World Financial Network National Bank, dated July 2, 1990, and amended September 11, 1990, November 16, 1990 and February 18, 1991 (incorporated by reference to Exhibit No. 10.18 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.7	Fourth Amendment to Lease Agreement by and between Continental Acquisitions, Inc. and World Financial Network National Bank, dated June 1, 2000 (incorporated by reference to Exhibit No. 10.1 to our Quarterly Report on Form 10-Q filed with the SEC on May 14, 2003, File No. 001-15749).
10.8	Fifth Amendment to Lease Agreement by and between Continental Acquisitions, Inc. and World Financial Network National Bank, dated June 30, 2001 (incorporated by reference to Exhibit No. 10.10 to our Annual Report on Form 10-K filed with the SEC on March 3, 2006, File No. 001-15749).
10.9	Sixth Amendment to Lease Agreement by and between Continental Acquisitions, Inc. and World Financial Network National Bank, dated January 27, 2006 (incorporated by reference to Exhibit 10.10 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2008, File No. 001-15749).
10.10	Letter Agreement by and between Continental Realty, Ltd. and ADS Alliance Data Systems, Inc., dated as of October 29, 2009 (incorporated by reference to Exhibit No. 10.10 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).

Exhibit No.	Description
10.11	Seventh Amendment to Lease Agreement by and among JEL/220 W. Schrock, LLC, FEK/220 W. Schrock, LLC, CP/220 W. Schrock, LLC, NRI 220 Schrock, LLC, ADS Alliance Data Systems, Inc. and Alliance Data Systems Corporation, dated as of January 14, 2010 (incorporated by reference to Exhibit No. 10.10 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2011, File No. 001-15749).
10.12	Lease Agreement by and between 601 Edgewater LLC and Epsilon Data Management, Inc., dated July 30, 2002 (incorporated by reference to Exhibit No. 10.17 to our Annual Report on Form 10-K filed with the SEC on March 4, 2005, File No. 001-15749).
10.13	First Amendment to Lease Agreement by and between 601 Edgewater LLC and Epsilon Data Management, Inc., dated August 29, 2007 (incorporated by reference to Exhibit 10.13 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2008, File No. 001-15749).
10.14	Second Amendment to Lease Agreement by and between 601 Edgewater LLC and Epsilon Data Management, LLC, dated October 3, 2008 (incorporated by reference to Exhibit 10.13 to our Annual Report on Form 10-K, filed with the SEC on March 2, 2009, File No. 001-15749).
10.15	Third Amendment to Lease Agreement by and between 601 Edgewater LLC and Epsilon Data Management, LLC, dated November 10, 2009 (incorporated by reference to Exhibit No. 10.14 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).
10.16	Lease Agreement by and between Sterling Direct, Inc. and Sterling Properties, L.L.C., dated September 22, 1997, as subsequently assigned (incorporated by reference to Exhibit No. 10.18 to our Annual Report on Form 10-K filed with the SEC on March 4, 2005, File No. 001-15749).
10.17	First Amendment to Lease by and between Bekins Properties LLC (as successor in interest to Sterling Properties LLC) and Epsilon Data Management, LLC (as successor in interest to Sterling Direct, Inc.), dated as of September 1, 2011 (incorporated by reference to Exhibit No. 10.17 to our Annual Report on Form 10-K, filed with the SEC on February 27, 2012, File No. 001-15749).
10.18	Lease Agreement by and between KDC-Regent I Investments, LP and Epsilon Data Management, Inc., dated May 31, 2005 (incorporated by reference to Exhibit No. 10.17 to our Annual Report on Form 10-K filed with the SEC on March 3, 2006, File No. 001-15749).
10.19	Second Amendment to Lease Agreement by and between KDC-Regent I Investments, LP and Epsilon Data Management, Inc., dated May 11, 2007 (incorporated by reference to Exhibit 10.17 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2008, File No. 001-15749).
10.20	Lease between 592423 Ontario Inc. and Loyalty Management Group Canada, Inc., dated November 14, 2005 (incorporated by reference to Exhibit No. 10.18 to our Annual Report on Form 10-K filed with the SEC on February 26, 2007, File No. 001-15749).
10.21	Lease Amending Agreement by and between Dundeal Canada (GP) Inc. (as successor in interest to 592423 Ontario Inc.) and LoyaltyOne, Inc., dated as of May 21, 2009 (incorporated by reference to Exhibit No. 10.19 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).
10.22	Lease Agreement by and between ADS Place Phase I, LLC and ADS Alliance Data Systems, Inc. dated August 25, 2006 (incorporated by reference to Exhibit No. 10.20 to our Annual Report on Form 10-K filed with the SEC on February 26, 2007, File No. 001-15749).
10.23	Third Lease Amendment by and between ADS Place Phase I, LLC and ADS Alliance Data Systems, Inc. dated as of November 1, 2007 (incorporated by reference to Exhibit No. 10.21 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).
10.24	Lease between 2725312 Canada Inc. and Loyalty Management Group Canada Inc. dated as of February 26, 2008, as amended (incorporated by reference to Exhibit No. 10.29 to our Annual Report on Form 10-K, filed with the SEC on February 27, 2012, File No. 001-15749).

Exhibit No.	Description
10.25	Industrial Building Lease between Aspen Marketing Services, Inc. (as successor-in-interest to Aspen Marketing, Inc.) and A. & A. Conte Joint Venture Limited Partnership dated June 3, 2003, as amended (incorporated by reference to Exhibit No. 10.30 to our Annual Report on Form 10-K, filed with the SEC on February 27, 2012, File No. 001-15749).
*10.26	Fourth Amendment to Industrial Building Lease between Aspen Marketing Services, LLC (as successor-in-interest to Aspen Marketing Services, Inc.) and A. & A. Conte Joint Venture Limited Partnership dated March 26, 2012.
*10.27	Co-Location Agreement between Epsilon Data Management, LLC and Cyrus Networks, LLC d/b/a CyrusOne dated November 15, 2011.
*10.28	Lease Agreement between NOP Cottonwood 2795, LLC and ADS Alliance Data Systems, Inc. dated as of September 21, 2010, as amended.
+10.29	Alliance Data Systems Corporation Amended and Restated Executive Deferred Compensation Plan effective January 1, 2008 (incorporated by reference to Exhibit No. 10.1 to our Quarterly Report on Form 10-Q filed with the SEC on May 11, 2009, File No. 001-15749).
+10.30	Amended and Restated Alliance Data Systems Corporation and its Subsidiaries Stock Option and Restricted Stock Plan (incorporated by reference to Exhibit No. 10.34 to our Registration Statement on Form S-1 filed with the SEC on May 4, 2001, File No. 333-94623).
+10.31	Form of Alliance Data Systems Corporation Incentive Stock Option Agreement under the Amended and Restated Alliance Data Systems Corporation and its Subsidiaries Stock Option and Restricted Stock Plan (incorporated by reference to Exhibit No. 10.35 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
+10.32	Form of Alliance Data Systems Corporation Non-Qualified Stock Option Agreement under the Amended and Restated Alliance Data Systems Corporation and its Subsidiaries Stock Option and Restricted Stock Plan (incorporated by reference to Exhibit No. 10.36 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
+10.33	Alliance Data Systems Corporation 2003 Long-Term Incentive Plan (incorporated by reference to Exhibit No. 4.6 to our Registration Statement on Form S-8 filed with the SEC on June 18, 2003, File No. 333-106246).
+10.34	Alliance Data Systems Corporation 2005 Long-Term Incentive Plan (incorporated by reference to Exhibit A to our Definitive Proxy Statement filed with the SEC on April 29, 2005, File No. 001-15749).
+10.35	Amendment Number One to the Alliance Data Systems Corporation 2005 Long Term Incentive Plan, dated as of September 24, 2009 (incorporated by reference to Exhibit No. 10.8 to our Quarterly Report on Form 10-Q filed with the SEC on November 9, 2009, File No. 001-15749).
+10.36	Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (incorporated by reference to Exhibit A to our Definitive Proxy Statement, filed with the SEC on April 20, 2010, File No. 001-15749).
+10.37	Form of Nonqualified Stock Option Agreement for awards under the Alliance Data Systems Corporation 2005 Long Term Incentive Plan (incorporated by reference to Exhibit No. 10.4 to our Current Report on Form 8-K filed with the SEC on August 4, 2005, File No. 001-15749).
+10.38	Form of Canadian Nonqualified Stock Option Agreement for awards under the Alliance Data Systems Corporation 2005 Long Term Incentive Plan (incorporated by reference to Exhibit No. 10.101 to our Annual Report on Form 10-K filed with the SEC on February 26, 2007, File No. 001-15749).
+10.39	Form of Performance-Based Restricted Stock Unit Award Agreement under the 2005 Long Term Incentive Plan (2010 grant) (incorporated by reference to Exhibit No. 10.61 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).
+10.40	Form of Canadian Performance-Based Restricted Stock Unit Award Agreement under the 2005 Long Term Incentive Plan (2010 grant) (incorporated by reference to Exhibit No. 10.62 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).

Exhibit No.	Description
+10.41	Form of Time-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2011 grant) (incorporated by reference to Exhibit No. 10.1 to our Quarterly Report on Form 10-Q, filed with the SEC on May 9, 2011, File No. 001-15749).
+10.42	Form of Performance-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2011 grant) (incorporated by reference to Exhibit No. 10.2 to our Quarterly Report on Form 10-Q, filed with the SEC on May 9, 2011, File No. 001-15749).
+10.43	Form of Canadian Time-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2011 grant) (incorporated by reference to Exhibit No. 10.3 to our Quarterly Report on Form 10-Q, filed with the SEC on May 9, 2011, File No. 001-15749).
+10.44	Form of Canadian Performance-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2011 grant) (incorporated by reference to Exhibit No. 10.4 to our Quarterly Report on Form 10-Q, filed with the SEC on May 9, 2011, File No. 001-15749).
+10.45	Form of Time-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2012 grant) (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K filed with the SEC on February 23, 2012, File No. 001-15749).
+10.46	Form of Performance-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2012 grant) (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K filed with the SEC on February 23, 2012, File No. 001-15749).
+10.47	Form of Time-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2013 grant) (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K filed with the SEC on February 25, 2013, File No. 001-15749).
+10.48	Form of Performance-Based Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan (2013 grant) (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K filed with the SEC on February 25, 2013, File No. 001-15749).
+10.49	Form of Non-Employee Director Nonqualified Stock Option Agreement (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K filed with the SEC on June 13, 2005, File No. 001-15749).
+10.50	Form of Non-Employee Director Share Award Letter (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K filed with the SEC on June 13, 2005, File No. 001-15749).
+10.51	Form of Non-Employee Director Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2005 Long Term Incentive Plan (2008 grant) (incorporated by reference to Exhibit No. 10.10 to our Quarterly Report on Form 10-Q filed with the SEC on August 8, 2008, File No. 001-15749).
*+10.52	Form of Non-employee Director Restricted Stock Unit Award Agreement under the Alliance Data Systems Corporation 2010 Omnibus Incentive Plan.
+10.53	Alliance Data Systems Corporation Non-Employee Director Deferred Compensation Plan (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K filed with the SEC on June 9, 2006, File No. 001-15749).
+10.54	Form of Alliance Data Systems Associate Confidentiality Agreement (incorporated by reference to Exhibit No. 10.24 to our Annual Report on Form 10-K filed with the SEC on March 12, 2003, File No. 001-15749).
+10.55	Form of Alliance Data Systems Corporation Indemnification Agreement for Officers and Directors (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K filed with the SEC on February 1, 2005, File No. 001-15749).
*+10.56	Amended and Restated Alliance Data Systems 401(k) and Retirement Savings Plan, effective January 1, 2013.

Exhibit No.	Description
+10.57	LoyaltyOne, Inc. Registered Retirement Savings Plan, as amended (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q, filed with the SEC on May 7, 2010, File No. 001-15749).
+10.58	LoyaltyOne, Inc. Deferred Profit Sharing Plan, as amended (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q, filed with the SEC on May 7, 2010, File No. 001-15749).
+10.59	LoyaltyOne, Inc. Canadian Supplemental Executive Retirement Plan, effective as of January 1, 2009 (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q, filed with the SEC on May 7, 2010, File No. 001-15749).
+10.60	Form of Change in Control Agreement, dated as of September 25, 2003, by and between ADS Alliance Data Systems, Inc. and Edward J. Heffernan (incorporated by reference to Exhibit No. 10.1 to our Registration Statement on Form S-3 filed with the SEC on October 15, 2003, File No. 333-109713).
10.61	Amended and Restated License to Use the Air Miles Trade Marks in Canada, dated as of July 24, 1998, by and between Air Miles International Holdings N.V. and Loyalty Management Group Canada Inc. (incorporated by reference to Exhibit No. 10.43 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623) (assigned by Air Miles International Holdings N.V. to Air Miles International Trading B.V. by a novation agreement dated as of July 18, 2001).
10.62	Amended and Restated License to Use and Exploit the Air Miles Scheme in Canada, dated July 24, 1998, by and between Air Miles International Trading B.V. and Loyalty Management Group Canada Inc. (incorporated by reference to Exhibit No. 10.44 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.63	Amended and Restated Program Participation Agreement, dated as of January 1, 2013, by and between LoyaltyOne, Inc. and Bank of Montreal (incorporated by reference to Exhibit 10.1 to our Current report on Form 8-K filed with the SEC on January 14, 2013, File No. 001-15749).
10.64	Second Amended and Restated Pooling and Servicing Agreement, dated as of January 17, 1996 as amended and restated as of September 17, 1999 and August 1, 2001, by and among WFN Credit Company, LLC, World Financial Network National Bank, and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.6 to the Registration Statement on Form S-3 of world financial network credit card master trust filed with the SEC on July 5, 2001, File No. 333-60418).
10.65	Omnibus Amendment, dated as of March 31, 2003, among WFN Credit Company, LLC, World Financial Network Credit Card Master Trust, World Financial Network National Bank and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4 to the Current Report on Form 8-K filed by WFN Credit Company, LLC and World Financial Network Credit Card Master Trust on April 22, 2003, File Nos. 333-60418 and 333-60418-01).
10.66	Second Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of May 19, 2004, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on August 4, 2004, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.67	Third Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of March 30, 2005, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed by World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on April 4, 2005, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.68	Fourth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of June 13, 2007, among World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on June 15, 2007, File Nos. 333-60418 and 333-113669).

Exhibit No.	Description
10.69	Fifth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of October 26, 2007, among World Financial Nwork National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on October 31, 2007, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.70	Sixth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of May 27, 2008, among World Financial Network National Bank, WFN Credit Company, LLC, and The Bank of New York Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on May 29, 2008, File Nos. 333-60418 and 333-113669).
10.71	Seventh Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of June 28, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on June 30, 2010, File Nos. 333-60418 and 333-113669).
10.72	Supplemental Agreement to Second Amended and Restated Pooling and Servicing Agreement, dated as of August 9, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on August 12, 2010, File Nos. 333-60418 and 333-113669).
10.73	Eighth Amendment to the Second Amended and Restated Pooling and Servicing Agreement, dated as of November 9, 2011, among World Financial Network Bank, WFN Credit Company, LLC, and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on November 14, 2011, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.74	Transfer and Servicing Agreement, dated as of August 1, 2001, between WFN Credit Company, LLC, World Financial Network National Bank, and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.3 to the Registration Statement on Form S-3 of World Financial Network Credit Card Master Trust filed with the SEC on July 5, 2001, File No. 333-60418).
10.75	First Amendment to the Transfer and Servicing Agreement, dated as of November 7, 2002, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed by WFN Credit Company, LLC and World Financial Network Credit Card Master Trust on November 20, 2002, File Nos. 333-60418 and 333-60418-01).
10.76	Third Amendment to the Transfer and Servicing Agreement, dated as of May 19, 2004, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.2 of the Current Report on Form 8-K filed by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on August 4, 2004, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.77	Fourth Amendment to the Transfer and Servicing Agreement, dated as of March 30, 2005, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed by World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on April 4, 2005, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.78	Fifth Amendment to the Transfer and Servicing Agreement, dated as of June 13, 2007, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on June 15, 2007, File Nos. 333-60418 and 333-113669).

Exhibit No.	Description
10.79	Sixth Amendment to the Transfer and Servicing Agreement, dated as of October 26, 2007, among WFN Credit Company, LLC, World Financial Network National Bank and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on October 31, 2007, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.80	Seventh Amendment to Transfer and Servicing Agreement, dated as of June 28, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.4 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on June 30, 2010, File Nos. 333-60418 and 333-113669).
10.81	Supplemental Agreement to Transfer and Servicing Agreement, dated as of August 9, 2010, among World Financial Network National Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.3 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on August 12, 2010, File Nos. 333-60418 and 333-113669).
10.82	Eighth Amendment to Transfer and Servicing Agreement, dated as of June 15, 2011, among World Financial Network National Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by World Financial Network Credit Card Master Note Trust and WFN Credit Company, LLC on June 15, 2011, File Nos. 333-113669 and 333-60418).
10.83	Ninth Amendment to Transfer and Servicing Agreement, dated as of November 9, 2011, among World Financial Network Bank, WFN Credit Company, LLC, and World Financial Network Credit Card Master Note Trust (incorporated by reference to Exhibit No. 4.3 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on November 14, 2011, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.84	Receivables Purchase Agreement, dated as of August 1, 2001, between World Financial Network National Bank and WFN Credit Company, LLC (incorporated by reference to Exhibit No. 4.8 to the Registration Statement on Form S-3 of World Financial Network Credit Card Master Trust filed with the SEC on July 5, 2001, File No. 333-60418).
10.85	First Amendment to Receivables Purchase Agreement, dated as of June 28, 2010, between World Financial Network National Bank and WFN Credit Company, LLC (incorporated by reference to Exhibit No. 4.3 to the Current Report on Form 8-K filed with the SEC by World Financial Network Credit Card Master Note Trust and WFN Credit Company, LLC on June 30, 2010, File Nos. 333-113669 and 333-60418).
10.86	Second Amendment to Receivables Purchase Agreement, dated as of November 9, 2011, between World Financial Network Bank and WFN Credit Company, LLC (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on November 14, 2011, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.87	Supplemental Agreement to Receivables Purchase Agreement, dated as of August 9, 2010, between World Financial Network National Bank and WFN Credit Company, LLC (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by World Financial Network Credit Card Master Note Trust and WFN Credit Company, LLC on August 12, 2010, File Nos. 333-113669 and 333-60418).
10.88	Master Indenture, dated as of August 1, 2001, between World Financial Network Credit Card Master Note Trust and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.1 to the Registration Statement on Form S-3 filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Trust on July 5, 2001, File Nos. 333-60418 and 333-60418-01).
10.89	Supplemental Indenture No. 1, dated as of August 13, 2003, between World Financial Network Credit Card Master Note Trust and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.2 of the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Trust on August 28, 2003, File Nos. 333-60418 and 333-60418-01).

Exhibit No.	Description
10.90	Supplemental Indenture No. 2, dated as of June 13, 2007, between World Financial Network Credit Card Master Note Trust and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 4.3 to the Current Report on Form 8-K filed by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on June 15, 2007, File Nos. 333-60418 and 333-113669).
10.91	Supplemental Indenture No. 3, dated as of May 27, 2008, between World Financial Network Credit Card Master Note Trust and The Bank of New York Trust Company, N.A. (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on May 29, 2008, File Nos. 333-60418 and 333-113669).
10.92	Supplemental Indenture No. 4, dated as of June 28, 2010, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC and World Financial Network Credit Card Master Note Trust on June 30, 2010, File Nos. 333-60418 and 333-113669).
10.93	Supplemental Indenture No. 5, dated as of February 20, 2013, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on February 22, 2013, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.94	Agreement of Resignation, Appointment and Acceptance, dated as of June 26, 2012, by and among World Financial Network Bank, World Financial Network Credit Card Master Note Trust, The Bank of New York Mellon Trust Company, N.A., and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust, and World Financial Network Credit Card Master Note Trust on June 26, 2012, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.95	Agreement of Resignation, Appointment and Acceptance, dated as of June 26, 2012, by and among WFN Credit Company, LLC, The Bank of New York Mellon Trust Company, N.A., and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust, and World Financial Network Credit Card Master Note Trust on June 26, 2012, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.96	Series 2009-D Indenture Supplement, dated as of August 13, 2009 (incorporated by reference to Exhibit No. 4.3 to the Current Report on Form 8-K filed by World Financial Network Credit Card Master Note Trust and WFN Credit Company, LLC with the SEC on August 17, 2009, File Nos. 333-113669 and 333-60418).
10.97	Series 2010-A Indenture Supplement, dated as of July 8, 2010, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by World Financial Network Credit Card Master Note Trust and WFN Credit Company, LLC on July 14, 2010, File Nos. 333-113669 and 333-60418).
10.98	Series 2011-A Indenture Supplement, dated as of November 9, 2011, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on November 14, 2011, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.99	Series 2011-B Indenture Supplement, dated as of November 9, 2011, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on November 14, 2011, File Nos. 333 -60418, 333-60418-01 and 333-113669).
10.100	Series 2012-A Indenture Supplement, dated as of April 12, 2012, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on April 16, 2012, File Nos. 333-60418, 333-60418-01 and 333-113669).

Exhibit No.	Description
10.101	Series 2012-B Indenture Supplement, dated as of July 19, 2012, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on July 23, 2012, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.102	Series 2012-C Indenture Supplement, dated as of July 19, 2012, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.2 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on July 23, 2012, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.103	Series 2012-D Indenture Supplement, dated as of October 5, 2012, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on October 10, 2012, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.104	Series 2013-A Indenture Supplement, dated as of February 20, 2013, between World Financial Network Credit Card Master Note Trust and Union Bank, N.A. (incorporated by reference to Exhibit No. 4.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on February 22, 2013, File Nos. 333-60418, 333-60418-01 and 333-113669).
*10.105	Fourth Amended and Restated Service Agreement, dated as of March 1, 2011, between ADS Alliance Data Systems, Inc. and World Financial Network National Bank, as assigned to Comenity Servicing LLC effective January 1, 2013.
10.106	Assignment and Assumption of the Fourth Amended and Restated Service Agreement, dated as of January 1, 2013, ADS Alliance Data Systems, Inc., Comenity Servicing LLC and Comenity Bank, (incorporated by reference to Exhibit No. 99.1 to the Current Report on Form 8-K filed with the SEC by WFN Credit Company, LLC, World Financial Network Credit Card Master Trust and World Financial Network Credit Card Master Note Trust on January 4, 2013, File Nos. 333-60418, 333-60418-01 and 333-113669).
10.107	Receivables Purchase Agreement, dated as of September 28, 2001, between World Financial Network National Bank and WFN Credit Company, LLC (incorporated by reference to Exhibit 10.5 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).
10.108	First Amendment to Receivables Purchase Agreement, dated as of June 24, 2008, between World Financial Network National Bank and WFN Credit Company, LLC. (incorporated by reference to Exhibit 10.94 to our Annual Report on Form 10-K, filed with the SEC on March 2, 2009, File No. 001-15749).
10.109	Second Amendment to Receivables Purchase Agreement, dated as of March 30, 2010, between World Financial Network National Bank and WFN Credit Company, LLC. (incorporated by reference to Exhibit No. 10.127 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2011, File No. 001-15749).
10.110	Supplemental Agreement to Receivables Purchase Agreement, dated as of August 9, 2010, between World Financial Network National Bank and WFN Credit Company, LLC. (incorporated by reference to Exhibit No. 10.128 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2011, File No. 001-15749).
10.111	Third Amendment to Receivables Purchase Agreement, dated as of September 30, 2011, between World Financial Network Bank and WFN Credit Company, LLC (incorporated by reference to Exhibit 10.4 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2011, File No. 001-15749).
10.112	World Financial Network Credit Card Master Trust III Amended and Restated Pooling and Servicing Agreement, dated as of September 28, 2001, among WFN Credit Company, LLC, World Financial Network National Bank, and The Chase Manhattan Bank, USA, National Association (incorporated by reference to Exhibit 10.6 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).
10.113	First Amendment to the Amended and Restated Pooling and Servicing Agreement, dated as of April 7, 2004, among WFN Credit Company, LLC, World Financial Network National Bank, and The Chase Manhattan Bank, USA, National Association (incorporated by reference to Exhibit 10.7 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).

Exhibit No.	Description
10.114	Second Amendment to the Amended and Restated Pooling and Servicing Agreement, dated as of March 23, 2005, among WFN Credit Company, LLC, World Financial Network National Bank, and The Chase Manhattan Bank, USA, National Association (incorporated by reference to Exhibit 10.8 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).
10.115	Third Amendment to the Amended and Restated Pooling and Servicing Agreement, dated as of October 26, 2007, among WFN Credit Company, LLC, World Financial Network National Bank, and Union Bank of California, N.A. (successor to JPMorgan Chase Bank, N.A.) (incorporated by reference to Exhibit 10.9 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).
10.116	Fourth Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of March 30, 2010, among WFN Credit Company, LLC, World Financial Network National Bank, and Union Bank, N.A. (incorporated by reference to Exhibit 10.9 to our Quarterly Report on Form 10-Q, filed with the SEC on May 7, 2010, File No. 001-15749).
10.117	Fifth Amendment to Amended and Restated Pooling and Servicing Agreement, dated as of September 30, 2011, among WFN Credit Company, LLC, World Financial Network Bank, and Union Bank, N.A. (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2011, File No. 001-15749).
10.118	Supplemental Agreement to Amended and Restated Pooling and Servicing Agreement, dated as of August 9, 2010, among WFN Credit Company, LLC, World Financial Network National Bank, and Union Bank, N.A (incorporated by reference to Exhibit No. 10.134 to our Annual Report on Form 10-K, filed with the SEC on February 28, 2011, File No. 001-15749).
10.119	Receivables Purchase Agreement, dated as of September 29, 2008, between World Financial Capital Bank and World Financial Capital Credit Company, LLC (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).
10.120	Amendment No. 1 to Receivables Purchase Agreement, dated as of June 4, 2010, between World Financial Capital Bank and World Financial Capital Credit Company, LLC (incorporated by reference to Exhibit 10.11 to our Quarterly Report on Form 10-Q, filed with the SEC on August 9, 2010, File No. 001-15749).
10.121	Transfer and Servicing Agreement, dated as of September 29, 2008, among World Financial Capital Credit Company, LLC, World Financial Capital Bank and World Financial Capital Master Note Trust (incorporated by reference to Exhibit 10.4 to our Quarterly Report on Form 10-Q, filed with the SEC on November 7, 2008, File No. 001-15749).
10.122	Amendment No. 1 to Transfer and Servicing Agreement, dated as of June 4, 2010, among World Financial Capital Credit Company, LLC, World Financial Capital Bank and World Financial Capital Master Note Trust (incorporated by reference to Exhibit 10.12 to our Quarterly Report on Form 10-Q, filed with the SEC on August 9, 2010, File No. 001-15749).
10.123	Series 2006-A Indenture Supplement, dated as of April 28, 2006, among World Financial Network Credit Card Master Note Trust, World Financial Network National Bank, WFN Credit Company, LLC and BNY Midwest Trust Company (incorporated by reference to Exhibit No. 10.122 to our Annual Report on Form 10-K, filed with the SEC on March 1, 2010, File No. 001-15749).
10.124	Amended and Restated Series 2009-VFC1 Supplement, dated as of September 28, 2012, among WFN Credit Company, LLC, World Financial Network Bank and Deutsche Bank Trust Company Americas (incorporated by reference to Exhibit No. 10.5 to our Quarterly Report on Form 10-Q, filed with the SEC on November 5, 2012, File No. 001-15749).
10.125	Second Amended and Restated Series 2009-VFN Indenture Supplement, dated as of June 1, 2012, between World Financial Capital Master Note Trust and U.S. Bank National Association (incorporated by reference to Exhibit No. 10.3 to our Quarterly Report on Form 10-Q, filed with the SEC on November 5, 2012, File No. 001-15749).
10.126	Third Amended and Restated Series 2009-VFN Indenture Supplement, dated as of June 13, 2012, between World Financial Network Credit Card Master Note Trust and The Bank of New York Mellon Trust Company, N.A. (incorporated by reference to Exhibit No. 10.4 to our Quarterly Report on Form 10-Q, filed with the SEC on November 5, 2012, File No. 001-15749).

Exhibit No.	Description
10.127	Credit Agreement, dated as of May 24, 2011, by and among Alliance Data Systems Corporation, as borrower, and certain subsidiaries parties thereto, as guarantors, SunTrust Bank and Bank of Montreal, as Co-Administrative Agents, and various other agents and lenders (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K, filed with the SEC on May 26, 2011, File No. 001-15749).
10.128	First Amendment to Credit Agreement, dated as of September 20, 2011, by and among Alliance Data Systems Corporation, as borrower, and certain subsidiaries parties thereto, as guarantors, SunTrust Bank and Bank of Montreal, as Co-Administrative Agents, and various other agents and lenders (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K, filed with the SEC on September 23, 2011, File No. 001-15749).
10.129	Second Amendment to Credit Agreement, dated as of March 30, 2012, by and among Alliance Data Systems Corporation, as borrower, and certain subsidiaries parties thereto, as guarantors, SunTrust Bank and Wells Fargo Bank, N.A., as Co-Administrative Agents, and various other agents and lenders (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K, filed with the SEC on April 2, 2012, File No. 001-15749).
10.130	Indenture, dated as of July 29, 2008, by and among Alliance Data Systems Corporation and The Bank of New York Mellon Trust Company, National Association, as Trustee (including the form of the Company's 1.75% Convertible Senior Note due August 1, 2013)(incorporated by reference to Exhibit No. 4.1 to our Current Report on Form 8-K filed with the SEC on July 29, 2008, File No. 001-15749).
10.131	Form of Hedge Confirmation dated July 23, 2008 between Alliance Data Systems Corporation and each of JPMorgan Chase Bank, National Association, London Branch (represented by J.P. Morgan Securities Inc., as its agent) and Bank of America, N.A. (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K filed with the SEC on July 29, 2008, File No. 001-15749).
10.132	Form of Warrant Confirmation dated July 23, 2008 between Alliance Data Systems Corporation and each of JPMorgan Chase Bank, National Association, London Branch (represented by J.P. Morgan Securities Inc., as its agent) and Bank of America, N.A. (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K filed with the SEC on July 29, 2008, File No. 001-15749).
10.133	Form of Warrant Confirmation Amendment dated August 4, 2008 between Alliance Data Systems Corporation and each of JPMorgan Chase Bank, National Association, London Branch (represented by J.P. Morgan Securities Inc., as its agent) and Bank of America, N.A. (incorporated by reference to Exhibit No. 10.27 to our Quarterly Report on Form 10-Q filed with the SEC on August 8, 2008, File No. 001-15749).
10.134	Indenture, dated June 2, 2009, between Alliance Data Systems Corporation and The Bank of New York Mellon Trust Company, National Association, as Trustee (including the form of the Company's 4.75% Convertible Senior Note due May 15, 2014) (incorporated by reference to Exhibit No. 4.1 to our Current Report on Form 8-K, filed with the SEC on June 2, 2009, File No. 001-15749).
10.135	Form of Convertible Note Hedge confirmation, dated May 27, 2009, between Alliance Data Systems Corporation and each of J.P. Morgan Securities Inc., as agent for JPMorgan Chase Bank, National Association, Bank of America, N.A., and Barclays Capital Inc., as agent for Barclays Bank PLC (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K, filed with the SEC on June 2, 2009, File No. 001-15749).
10.136	Form of Warrant confirmation, dated May 27, 2009, between Alliance Data Systems Corporation and each of J.P. Morgan Securities Inc., as agent for JPMorgan Chase Bank, National Association, London Branch, Bank of America, N.A., and Barclays Capital Inc., as agent for Barclays Bank PLC (incorporated by reference to Exhibit No. 10.3 to our Current Report on Form 8-K, filed with the SEC on June 2, 2009, File No. 001-15749).
10.137	Form of Forward Stock Purchase Transaction, dated May 27, 2009, between Alliance Data Systems Corporation and each of Merrill Lynch, Pierce, Fenner & Smith Incorporated, as agent for Merrill Lynch International, and Barclays Capital Inc., as agent for Barclays Bank PLC (incorporated by reference to Exhibit No. 10.4 to our Current Report on Form 8-K, filed with the SEC on June 2, 2009, File No. 001-15749).
10.138	Form of Additional Convertible Note Hedge confirmation, dated June 4, 2009, between Alliance Data Systems Corporation and each of J.P. Morgan Securities Inc., as agent for JPMorgan Chase Bank, National Association, London Branch, Bank of America, N.A., and Barclays Capital Inc., as agent for Barclays Bank PLC (incorporated by reference to Exhibit No. 10.1 to our Current Report on Form 8-K, filed with the SEC on June 9, 2009, File No. 001-15749).

Exhibit No.	Description
10.139	Form of Additional Warrant confirmation, dated June 4, 2009, between Alliance Data Systems Corporation and each of J.P. Morgan Securities Inc., as agent for JPMorgan Chase Bank, National Association, London Branch, Bank of America, N.A., and Barclays Capital Inc., as agent for Barclays Bank PLC (incorporated by reference to Exhibit No. 10.2 to our Current Report on Form 8-K, filed with the SEC on June 9, 2009, File No. 001-15749).
10.140	Indenture, dated March 29, 2012, by and among Alliance Data Systems Corporation, as issuer, and certain subsidiaries parties thereto, as guarantors, and Wells Fargo Bank, N.A., as Trustee (including the form of the Company's 6.375% Senior Note due April 1, 2010) (incorporated by reference to Exhibit No. 4.1 to our Current Report on Form 8-K filed with the SEC on April 2, 2012, File No. 001-15749).
10.141	Indenture, dated November 20, 2012, by and among Alliance Data Systems Corporation, as issuer, and certain subsidiaries parties thereto, as guarantors, and Wells Fargo Bank, N.A., as Trustee (including the form of the Company's 5.250% Senior Note due December 1, 2017) (incorporated by reference to Exhibit No. 4.1 to our Current Report on Form 8-K filed with the SEC on November 27, 2012, File No. 001-15749).
*12.1	Statement re Computation of Ratios
*21	Subsidiaries of the Registrant
*23.1	Consent of Deloitte & Touche LLP
*31.1	Certification of Chief Executive Officer of Alliance Data Systems Corporation pursuant to Rule 13a-14(a) promulgated under the Securities Exchange Act of 1934, as amended.
*31.2	Certification of Chief Financial Officer of Alliance Data Systems Corporation pursuant to Rule 13a-14(a) promulgated under the Securities Exchange Act of 1934, as amended.
*32.1	Certification of Chief Executive Officer of Alliance Data Systems Corporation pursuant to Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code.
*32.2	Certification of Chief Financial Officer of Alliance Data Systems Corporation pursuant to Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934, as amended, and Section 1350 of Chapter 63 of Title 18 of the United States Code.
*101.INS	XBRL Instance Document
*101.SCH	XBRL Taxonomy Extension Schema Document
*101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
*101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
*101.LAB	XBRL Taxonomy Extension Label Linkbase Document
*101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herewith

\+ Management contract, compensatory plan or arrangement

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS
ALLIANCE DATA SYSTEMS CORPORATION

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Alliance Data Systems Corporation
Plano, Texas

We have audited the accompanying consolidated balance sheets of Alliance Data Systems Corporation and subsidiaries (the "Company") as of December 31, 2012 and 2011, and the related consolidated statements of income, comprehensive income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2012. Our audits also included the financial statement schedule listed in the Index at Item 15. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Alliance Data Systems Corporation and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 28, 2013 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ Deloitte & Touche LLP

Dallas, Texas
February 28, 2013

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Alliance Data Systems Corporation
Plano, Texas

We have audited the internal control over financial reporting of Alliance Data Systems Corporation and subsidiaries (the "Company") as of December 31, 2012, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. As described in Management's Report on Internal Control over Financial Reporting, management excluded from its assessment the internal control over financial reporting at HMI Holding Corp. and Solution Set Holding Corp. (collectively, "HMI") and Advecor, Inc. ("Advecor"), which were acquired on November 30, 2012 and December 31, 2012, respectively. As of December 31, 2012, HMI's financial statements constitute approximately $562.6 million of total assets, $31.0 million of revenues and $1.5 million of pre-tax income for the year then ended. As of December 31, 2012, Advecor's financial statements constitute approximately $13.4 million of total assets. Accordingly, our audit did not include the internal control over financial reporting at HMI and Advecor. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements and financial statement schedule as of and for the year ended December 31, 2012 of the Company and our report dated February 28, 2013 expressed an unqualified opinion on those financial statements and financial statement schedule.

/s/ Deloitte & Touche LLP

Dallas, Texas
February 28, 2013

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED BALANCE SHEETS

	December 31,	
	2012	2011
	(In thousands, except per share amounts)	
ASSETS		
Cash and cash equivalents	$ 893,352	$ 216,213
Trade receivables, less allowance for doubtful accounts ($3,919 and $2,406 at December 31, 2012 and 2011, respectively)	370,110	300,895
Credit card receivables:		
Credit card receivables – restricted for securitization investors	6,597,120	4,886,168
Other credit card receivables	852,512	779,843
Total credit card receivables	7,449,632	5,666,011
Allowance for loan loss	(481,958)	(468,321)
Credit card receivables, net	6,967,674	5,197,690
Deferred tax asset, net	237,268	252,303
Other current assets	171,049	121,589
Redemption settlement assets, restricted	492,690	515,838
Assets of discontinued operations	—	2,439
Total current assets	9,132,143	6,606,967
Property and equipment, net	253,028	195,397
Deferred tax asset, net	30,027	43,408
Cash collateral, restricted	65,160	158,727
Intangible assets, net	582,874	383,646
Goodwill	1,751,053	1,449,363
Other non-current assets	185,854	142,741
Total assets	$ 12,000,139	$ 8,980,249
LIABILITIES AND STOCKHOLDERS' EQUITY		
Accounts payable	$ 215,470	$ 149,812
Accrued expenses	274,625	206,621
Deposits	1,092,753	642,567
Asset-backed securities debt – owed to securitization investors	1,474,054	1,694,198
Current debt	803,269	19,834
Other current liabilities	117,283	105,888
Deferred revenue	1,055,323	1,036,251
Total current liabilities	5,032,777	3,855,171
Deferred revenue	193,738	190,185
Deferred tax liability, net	277,354	151,746
Deposits	1,135,658	711,208
Asset-backed securities debt – owed to securitization investors	2,656,916	1,566,089
Long-term and other debt	2,051,570	2,163,640
Other liabilities	123,639	166,244
Total liabilities	11,471,652	8,804,283
Commitments and contingencies (Note 12)		
Stockholders' equity:		
Common stock, $0.01 par value; authorized, 200,000 shares; issued, 94,963 shares and 94,141 shares at December 31, 2012 and 2011, respectively	950	941
Additional paid-in capital	1,454,230	1,387,773
Treasury stock, at cost, 45,360 shares and 44,311 shares at December 31, 2012 and 2011, respectively	(2,458,092)	(2,320,696)
Retained earnings	1,553,260	1,131,004
Accumulated other comprehensive loss	(21,861)	(23,056)
Total stockholders' equity	528,487	175,966
Total liabilities and stockholders' equity	$ 12,000,139	$ 8,980,249

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED STATEMENTS OF INCOME

	Years Ended December 31,		
	2012	2011	2010
	(In thousands, except per share amounts)		
Revenues			
Transaction	$ 300,801	$ 290,582	$ 285,717
Redemption	635,536	572,499	543,626
Finance charges, net	1,643,405	1,402,041	1,284,432
Database marketing fees and direct marketing services	931,533	806,470	602,500
Other revenue	130,115	101,695	75,146
Total revenue	3,641,390	3,173,287	2,791,421
Operating expenses			
Cost of operations (exclusive of depreciation and amortization disclosed separately below)	2,106,612	1,811,882	1,545,380
Provision for loan loss	285,479	300,316	387,822
General and administrative	108,059	95,256	85,773
Depreciation and other amortization	73,802	70,427	67,806
Amortization of purchased intangibles	93,074	82,726	75,420
Total operating expenses	2,667,026	2,360,607	2,162,201
Operating income	974,364	812,680	629,220
Interest expense			
Securitization funding costs	92,808	126,711	155,084
Interest expense on deposits	25,181	23,078	29,456
Interest expense on long-term and other debt, net	173,471	148,796	133,790
Total interest expense, net	291,460	298,585	318,330
Income from continuing operations before income taxes	682,904	514,095	310,890
Provision for income taxes	260,648	198,809	115,252
Income from continuing operations	$ 422,256	$ 315,286	$ 195,638
Loss from discontinued operations, net of taxes	—	—	(1,901)
Net income	$ 422,256	$ 315,286	$ 193,737
Basic income (loss) per share:			
Income from continuing operations	$ 8.44	$ 6.22	$ 3.72
Loss from discontinued operations	$ —	$ —	$ (0.03)
Net income per share	$ 8.44	$ 6.22	$ 3.69
Diluted income (loss) per share:			
Income from continuing operations	$ 6.58	$ 5.45	$ 3.51
Loss from discontinued operations	$ —	$ —	$ (0.03)
Net income per share	$ 6.58	$ 5.45	$ 3.48
Weighted average shares:			
Basic	50,008	50,687	52,534
Diluted	64,143	57,804	55,710

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

	Years Ended December 31,		
	2012	2011	2010
		(In thousands)	
Net income	$ 422,256	$ 315,286	$ 193,737
Adoption of ASC 860 and ASC 810	—	—	55,881
Other comprehensive income (loss), net of tax			
Net unrealized gain (loss) on securities, net of tax (benefit) expense of $(377), $251 and $(3) for the years ended December 31, 2012, 2011 and 2010, respectively	3,368	27,035	(12,939)
Foreign currency translation adjustments	(2,173)	(15,591)	(11,701)
Other comprehensive income (loss)	1,195	11,444	(24,640)
Total comprehensive income, net of tax	$ 423,451	$ 326,730	$ 224,978

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

	Common Stock		Additional Paid-In Capital	Treasury Stock	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity
	Shares	Amount					
				(In thousands)			
January 1, 2010	91,121	$ 911	$ 1,235,669	$ (1,931,102)	$ 1,033,039	$ (65,741)	$ 272,776
Net income	—	—	—	—	193,737	—	193,737
Effects of adoption of ASC 860 and ASC 810	—	—	—	—	(411,058)	55,881	(355,177)
Other comprehensive loss	—	—	—	—	—	(24,640)	(24,640)
Stock-based compensation	—	—	50,094	—	—	—	50,094
Repurchases of common stock	—	—	—	(148,717)	—	—	(148,717)
Other common stock issued, including income tax benefits	1,676	17	35,004	—	—	—	35,021
December 31, 2010	92,797	$ 928	$ 1,320,767	$ (2,079,819)	$ 815,718	$ (34,500)	$ 23,094
Net income	—	—	—	—	315,286	—	315,286
Other comprehensive income	—	—	—	—	—	11,444	11,444
Stock-based compensation	—	—	43,486	—	—	—	43,486
Repurchases of common stock	—	—	—	(240,877)	—	—	(240,877)
Other common stock issued, including income tax benefits	1,344	13	23,520	—	—	—	23,533
December 31, 2011	94,141	$ 941	$ 1,387,773	$ (2,320,696)	$ 1,131,004	$ (23,056)	$ 175,966
Net income	—	—	—	—	422,256	—	422,256
Other comprehensive income	—	—	—	—	—	1,195	1,195
Stock-based compensation	—	—	50,497	—	—	—	50,497
Repurchases of common stock	—	—	—	(137,396)	—	—	(137,396)
Other common stock issued, including income tax benefits	822	9	15,960	—	—	—	15,969
December 31, 2012	94,963	$ 950	$ 1,454,230	$ (2,458,092)	$ 1,553,260	$ (21,861)	$ 528,487

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Years Ended December 31,		
	2012	2011	2010
		(In thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 422,256	$ 315,286	$ 193,737
Adjustments to reconcile net income to net cash provided by (used in) operating activities:			
Depreciation and amortization	166,876	153,153	143,226
Deferred income taxes	102,266	47,037	19,061
Provision for loan loss	285,479	300,316	390,822
Non-cash stock compensation	50,497	43,486	50,094
Fair value gain on interest-rate derivatives	(29,592)	(31,728)	(8,725)
Amortization of discount on debt	82,452	73,787	66,131
Change in operating assets and liabilities, net of acquisitions:			
Change in trade accounts receivable	(49,219)	(32,158)	(44,040)
Change in other assets	21,751	35,045	32,524
Change in accounts payable and accrued expenses	115,114	53,676	61,164
Change in deferred revenue	(11,225)	33,341	11,485
Change in other liabilities	(13,146)	31,944	9,431
Excess tax benefits from stock-based compensation	(20,199)	(15,028)	(12,959)
Other	10,880	3,190	(9,242)
Net cash provided by operating activities	1,134,190	1,011,347	902,709
CASH FLOWS FROM INVESTING ACTIVITIES:			
Change in redemption settlement assets	37,232	(49,179)	52,352
Change in restricted cash	(46,837)	98,408	2,891
Change in credit card receivables	(1,371,352)	(578,058)	(239,433)
Purchase of credit card portfolios	(780,003)	(68,554)	—
Change in cash collateral, restricted	99,035	22,046	32,068
Payments for acquired businesses, net of cash	(463,964)	(359,076)	(117,000)
Capital expenditures	(116,455)	(73,502)	(68,755)
Purchases of marketable securities	(34,069)	(14,809)	(4,965)
Maturities/sales of marketable securities	15,651	—	—
Investments in the stock of investees	(921)	(17,986)	(500)
Other	(9,667)	—	2,558
Net cash used in investing activities	(2,671,350)	(1,040,710)	(340,784)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings under debt agreements	1,095,148	3,256,500	1,507,000
Repayment of borrowings	(506,214)	(3,012,682)	(1,462,806)
Issuances of deposits	1,866,213	1,180,284	177,600
Repayments of deposits	(991,577)	(685,609)	(783,500)
Borrowings from asset-backed securities	2,543,892	2,179,721	1,147,943
Repayments/maturities of asset-backed securities	(1,673,209)	(2,579,577)	(1,173,735)
Payment of capital lease obligations	(22)	(3,925)	(23,171)
Payment of deferred financing costs	(40,267)	(29,025)	(3,102)
Excess tax benefits from stock-based compensation	20,199	15,028	12,959
Proceeds from issuance of common stock	20,696	29,412	33,854
Purchase of treasury shares	(125,840)	(240,877)	(148,717)
Net cash provided by (used in) financing activities	2,209,019	109,250	(715,675)
Effect of exchange rate changes on cash and cash equivalents	5,280	(2,788)	(2,067)
Change in cash and cash equivalents	677,139	77,099	(155,817)
Cash effect on adoption of ASC 860 and ASC 810	—	—	81,553
Cash and cash equivalents at beginning of year	216,213	139,114	213,378
Cash and cash equivalents at end of year	$ 893,352	$ 216,213	$ 139,114
SUPPLEMENTAL CASH FLOW INFORMATION:			
Interest paid	$ 215,708	$ 231,049	$ 241,357
Income taxes paid, net	$ 137,838	$ 123,480	$ 44,723

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

Description of the Business—Alliance Data Systems Corporation ("ADSC" or, including its wholly-owned subsidiaries and its consolidated variable interest entities, the "Company") is a leading provider of transaction-based data-driven marketing and loyalty solutions. The Company offers a comprehensive portfolio of integrated outsourced marketing solutions, including customer loyalty programs, database marketing services, marketing strategy consulting, analytics and creative services, direct marketing services and private label and co-brand retail credit card programs. The Company focuses on facilitating and managing interactions between its clients and their customers through all consumer marketing channels, including in-store, on-line, catalog, mail, telephone and email, and emerging channels such as mobile and social media. The Company captures and analyzes data created during each customer interaction, leveraging the insight derived from that data to enable clients to identify and acquire new customers and enhance customer loyalty.

The Company operates in the following reportable segments: LoyaltyOne®, Epsilon®, and Private Label Services and Credit.

LoyaltyOne includes the Company's Canadian AIR MILES® Reward Program. Epsilon provides end-to-end, integrated direct marketing solutions that combine database marketing technology and analytics with a broad range of direct marketing services, including email marketing campaigns. Private Label Services and Credit encompasses credit card processing, billing and payment processing, customer care and collections services for private label retailers as well as private label retail credit card receivables financing, including securitization of the credit card receivables that it underwrites from its private label retail credit card programs.

Effective October 1, 2012, the Company's subsidiaries World Financial Network Bank and World Financial Capital Bank changed their names to Comenity Bank and Comenity Capital Bank, respectively. These name changes have been reflected in the Notes to the Consolidated Financial Statements.

For purposes of comparability, certain prior period amounts have been reclassified to conform to the current year presentation in accordance with accounting principles generally accepted in the United States of America ("GAAP").

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation—The accompanying consolidated financial statements include the accounts of ADSC and its wholly-owned subsidiaries. All intercompany transactions have been eliminated.

The Company also consolidates any variable interest entity ("VIE") for which the Company is the primary beneficiary. In accordance with Accounting Standards Codification ("ASC") 860, "Transfers and Servicing," and ASC 810, "Consolidation," the Company is the primary beneficiary of World Financial Network Credit Card Master Trust ("Master Trust"), World Financial Network Credit Card Master Note Trust ("Master Trust I"), World Financial Network Credit Card Master Note Trust II ("Master Trust II") and World Financial Network Credit Card Master Trust III ("Master Trust III") (collectively, the "WFN Trusts"), and World Financial Capital Master Note Trust (the "WFC Trust"). The Company is deemed to be the primary beneficiary for the WFN Trusts and the WFC Trust, as it is the servicer for each of the trusts and is a holder of the residual interest. The Company, through its involvement in the activities of the trusts, has the power to direct the activities that most significantly impact the economic performance of the trust, and the obligation (or right) to absorb losses (or receive benefits) of the trust that could potentially be significant.

For investments in any entities in which the Company owns 50% or less of the outstanding voting stock but in which the Company has significant influence over operating and financial decisions, the Company applies the equity method of accounting. In cases where the Company's equity investment is less than 20% and significant influence does not exist, such investments are carried at cost.

Cash and Cash Equivalents—The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Credit Card Receivables—The Company sells a majority of the credit card receivables originated by Comenity Bank to WFN Credit Company, LLC, which in turn sells them to the WFN Trusts as part of a securitization program. The Company also sells its credit card receivables originated by Comenity Capital Bank to World Financial Capital Credit Company, LLC which in turn sells them to the WFC Trust. The credit card receivables sold to each of the trusts are restricted for securitization investors.

Credit card receivables consist of credit card receivables held for investment and credit card receivables held for sale, if any. All new originations of credit card receivables (except for the amount of new credit card receivables related to existing securitized portfolios transferred to the WFN Trusts or the WFC Trust during the term of a securitization) are deemed to be held for investment at origination because management has the intent and ability to hold them for the foreseeable future. Management makes judgments about the Company's

ability to fund these credit card receivables through means other than securitization, such as money market deposits, certificates of deposit and other borrowings. In determining what constitutes the foreseeable future, management considers the short average life and homogenous nature of the Company's credit card receivables. In assessing whether these credit card receivables continue to be held for investment, management also considers capital levels and scheduled maturities of funding instruments used. Management believes that the assertion regarding its intent and ability to hold credit card receivables for the foreseeable future can be made with a high degree of certainty given the maturity distribution of the Company's money market deposits, certificates of deposit and other funding instruments; the historic ability to replace maturing certificates of deposits and other borrowings with new deposits or borrowings; and historic credit card payment activity. Due to the homogenous nature of credit card receivables, amounts are classified as held for investment on an individual client portfolio basis.

Credit card receivables held for sale are determined on an individual client portfolio basis. The Company carries these assets at the lower of aggregate cost or fair value. Cash flows associated with credit card portfolios that are purchased with the intent to sell are included in cash flows from operating activities. Cash flows associated with credit card receivables originated or purchased for investment are classified as investing cash flows, regardless of a subsequent change in intent.

Allowance for Loan Loss—The Company maintains an allowance for loan loss at a level that is appropriate to absorb probable losses inherent in credit card receivables. The allowance for loan loss covers forecasted uncollectable principal as well as unpaid interest and fees. The allowance for loan loss is evaluated monthly for adequacy.

In estimating the allowance for principal loan losses, management utilizes a migration analysis of delinquent and current credit card receivables. Migration analysis is a technique used to estimate the likelihood that a credit card receivable will progress through the various stages of delinquency and to charge-off. The allowance is maintained through an adjustment to the provision for loan loss. Charge-offs of principal amounts, net of recoveries are deducted from the allowance.

In estimating the allowance for uncollectable unpaid interest and fees, the Company utilizes historical charge-off trends, analyzing actual charge-offs for the prior three months. The allowance is maintained through an adjustment to finance charges, net.

In evaluating the allowance for loan loss for both principal and unpaid interest and fees, management also considers factors that may impact loan loss experience, including seasoning, loan volume and amounts, payment rates and forecasting uncertainties.

Allowance for Doubtful Accounts—The Company analyzes the appropriateness of its allowance for doubtful accounts based on the Company's assessment of various factors, including historical experience, the age of the accounts receivable balance, customer credit-worthiness, current economic trends, and changes in its customer payment terms and collection trends. Account balances are charged off against the allowance after all reasonable means of collection have been exhausted and the potential for recovery is considered remote.

Redemption Settlement Assets, Restricted—The cash and investments related to the redemption fund for the AIR MILES Reward Program are subject to a security interest which is held in trust for the benefit of funding redemptions by collectors. These assets are restricted to funding rewards for the collectors by certain of the Company's sponsor contracts. The investments are stated at fair value, with the unrealized gains and losses, net of tax, reported as a component of accumulated other comprehensive (loss) income. Investments that the Company does not have the positive intent and ability to hold to maturity are classified as available-for-sale.

Property and Equipment—Furniture, equipment, computer software and development, buildings and leasehold improvements are carried at cost, less accumulated depreciation and amortization. Land is carried at cost and is not depreciated. Depreciation and amortization for furniture, equipment and buildings are computed on a straight-line basis, using estimated lives ranging from one to twenty-one years. Software development is capitalized in accordance with ASC 350-40, "Intangibles – Goodwill and Other – Internal – Use Software," and is amortized on a straight-line basis over the expected benefit period, which generally ranges from three to five years. Leasehold improvements are amortized over the remaining lives of the respective leases or the remaining useful lives of the improvements, whichever is shorter. Long-lived assets are tested for impairment when events or conditions indicate that the carrying value of an asset may not be fully recoverable from future cash flows.

Cash Collateral, Restricted—Cash collateral, restricted consists of cash and securities and includes spread deposits and excess funding deposits. Spread deposits are held by a trustee or agent and are used to absorb shortfalls in the available net cash flows related to securitized credit card receivables if those available net cash flows are insufficient to satisfy certain obligations of the WFN Trusts and WFC Trust. The spread deposit accounts are recorded in cash collateral, restricted at their estimated fair values. The Company uses a valuation model that calculates the present value of estimated future cash flows for each asset. The model is based on the weighted average life of the underlying securities and discount rate. Changes in the fair value estimates of the spread deposit accounts are recorded in interest expense, net. The excess funding deposits represent cash amounts deposited with the trustee of the securitizations and are used to supplement seller's interest.

Goodwill and Other Intangible Assets—Goodwill and indefinite lived intangible assets are not amortized, but are reviewed at least annually for impairment or more frequently if circumstances indicate that an impairment may have occurred, using the market comparable and discounted cash flow methods.

Separable intangible assets that have finite useful lives are amortized over those useful lives. The Company also defers costs related to the acquisition or licensing of data for the Company's proprietary databases which are used in providing data products and services to customers. These costs are amortized over the useful life of the data, which ranges from one to five years.

Revenue Recognition—The Company's policy follows the guidance from ASC 605, "Revenue Recognition," and Accounting Standards Update ("ASU") 2009-13, "Multiple-Deliverable Revenue Arrangements," which provides guidance on the recognition, presentation, and disclosure of revenue in financial statements. The Company recognizes revenues when persuasive evidence of an arrangement exists, the services have been provided to the client, the sales price is fixed or determinable, and collectability is reasonably assured.

Transaction —The Company earns transaction fees, which are principally based on the number of transactions processed or statements generated and are recognized as such services are performed. Included are reimbursements received for "out-of-pocket" expenses.

AIR MILES Reward Program—The Company allocates the proceeds received from sponsors for the issuance of AIR MILES reward miles between the redemption element which represents the award ultimately provided to the collector (the "redemption element") and the service element (the "service element"). The service element consists of direct marketing and support services.

The revenue related to the redemption element is deferred until the collector redeems the AIR MILES reward miles or over the estimated life of an AIR MILES reward mile, or 42 months, in the case of AIR MILES reward miles that the Company estimates will go unused by the collector base ("breakage"). There have been no changes in management's estimate of the life of an AIR MILES reward mile in the periods presented. The Company currently estimates breakage to be 27% of AIR MILES reward miles issued. The estimated breakage changed from 28% to 27% effective December 31, 2012. See Note 11, "Deferred Revenue," for additional information.

The service element consists of marketing and administrative services. For contracts entered into prior to January 1, 2011, revenue related to the service element is determined using the residual method in accordance with ASC 605-25, "Revenue Recognition — Multiple-Element Arrangements." It is initially deferred and then amortized pro rata over the estimated life of an AIR MILES reward mile. With the adoption of ASU 2009-13, the residual method is no longer utilized for new sponsor agreements entered into or contracts that are materially modified; for these agreements, the Company measures the service element at its estimated selling price.

Finance charges, net—Finance charges, net represents revenue earned on customer accounts serviced by the Company, and is recognized in the period in which it is earned. The Company recognizes earned finance charges, interest income and fees on credit card receivables in accordance with the contractual provisions of the credit arrangements. As discussed in Note 5, "Credit Card Receivables," interest and fees continue to accrue on all credit card accounts beyond 90 days, except in limited circumstances, until the credit card account balance and all related interest and other fees are paid or charged off, typically at 180 days delinquent. Charge-offs for unpaid interest and fees as well as any adjustments to the allowance associated with unpaid interest and fees are recorded as a reduction to finance charges, net. Pursuant to ASC Subtopic 310-20, "Receivables - Nonrefundable Fees and Other Costs," direct loan origination costs on credit card receivables are deferred and amortized on a straight-line basis over a one-year period and recorded as a reduction to finance charges, net.

Database marketing fees and direct marketing services—For maintenance and service programs, revenue is recognized as services are provided. Revenue associated with a new database build is deferred until client acceptance. Upon acceptance, it is then recognized over the term of the related agreement as the services are provided. Revenues from the licensing of data are recognized upon delivery of the data to the customer in circumstances where no update or other obligations exist. Revenue from the licensing of data in which the Company is obligated to provide future updates is recognized on a straight-line basis over the license term.

Taxes assessed on revenue-producing transactions described above are presented on a net basis, and are excluded from revenues.

Earnings Per Share— Basic earnings per share is based only on the weighted average number of common shares outstanding, excluding any dilutive effects of options or other dilutive securities. Diluted earnings per share are based on the weighted average number of common and potentially dilutive common shares (dilutive stock options, unvested restricted stock and other dilutive securities outstanding during the year).

The following table sets forth the computation of basic and diluted net income per share for the periods indicated:

	Years Ended December 31,		
	2012	2011	2010
	(In thousands, except per share amounts)		
Numerator			
Income from continuing operations	$ 422,256	$ 315,286	$ 195,638
Loss from discontinued operations	—	—	(1,901)
Net income	$ 422,256	$ 315,286	$ 193,737
Denominator			
Weighted average shares, basic	50,008	50,687	52,534
Weighted average effect of dilutive securities:			
Shares from assumed conversion of convertible senior notes	8,645	4,641	1,835
Shares from assumed conversion of convertible note warrants	4,702	1,510	—
Net effect of dilutive stock options and unvested restricted stock	788	966	1,341
Denominator for diluted calculation	64,143	57,804	55,710
Basic:			
Income from continuing operations per share	$ 8.44	$ 6.22	$ 3.72
Loss from discontinued operations per share	$ —	$ —	$ (0.03)
Net income per share	$ 8.44	$ 6.22	$ 3.69
Diluted:			
Income from continuing operations per share	$ 6.58	$ 5.45	$ 3.51
Loss from discontinued operations per share	$ —	$ —	$ (0.03)
Net income per share	$ 6.58	$ 5.45	$ 3.48

The Company calculates the effect of its convertible senior notes, consisting of $805.0 million aggregate principal amount of convertible senior notes due 2013 (the "Convertible Senior Notes due 2013") and $345.0 million aggregate principal amount of convertible senior notes due 2014 (the "Convertible Senior Notes due 2014"), which can be settled in cash or shares of common stock, on diluted net income per share as if they will be settled in cash as the Company has the intent to settle the convertible senior notes for cash.

Concurrently with the issuance of the Convertible Senior Notes 2013 and the Convertible Senior Notes 2014, the Company entered into hedge transactions which are generally expected to offset the potential dilution of the shares from assumed conversion of convertible senior notes.

The Company is also party to prepaid forward contracts to purchase 1,857,400 shares of its common stock that are to be delivered over a settlement period in 2014. The number of shares to be delivered under the prepaid forward contracts is used to reduce weighted-average basic and diluted shares outstanding.

At December 31, 2011 and 2010, the Company excluded 10.3 million and 17.5 million warrants, respectively, from the calculation of earnings per share as the effect was anti-dilutive.

Currency Translation—The assets and liabilities of the Company's subsidiaries outside the U.S., primarily Canada, are translated into U.S. dollars at the rates of exchange in effect at the balance sheet dates. Income and expense items are translated at the average exchange rates prevailing during the period. Gains and losses resulting from currency transactions are recognized currently in income and those resulting from translation of financial statements are included in accumulated other comprehensive income (loss). The Company recognized $0.6 million, $(2.7) million and $3.0 million in foreign currency transaction gains (losses) during 2012, 2011 and 2010, respectively.

Leases —Rent expense on operating leases is recorded on a straight-line basis over the term of the lease agreement and includes executory costs.

Advertising Costs—The Company participates in various advertising and marketing programs, including collaborative arrangements with certain clients. The cost of advertising and marketing programs is expensed in the period incurred. The Company has recognized advertising expenses of $166.1 million, $129.0 million, and $115.5 million for the years ended 2012, 2011 and 2010, respectively.

Stock Compensation Expense—The Company accounts for stock-based compensation in accordance with ASC 718, "Compensation – Stock Compensation." Under the fair value recognition provisions, stock-based compensation expense is measured at the grant date based on the fair value of the award and is recognized ratably over the requisite service period.

Management Estimates—The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Recently Issued Accounting Standards

In July 2012, the FASB issued ASU 2012-02, "Intangibles – Goodwill and Other (Topic 350): Testing Indefinite-Lived Intangible Assets for Impairment," which amends ASC 350, "Intangibles – Goodwill and Other." ASU 2012-02 provides an option to first perform a qualitative assessment in testing an indefinite-lived intangible asset for impairment. If based on the qualitative assessment, the carrying value of the asset is more likely than not greater than the fair value, then the current quantitative impairment test must be performed. ASU 2012-02 is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012, with early adoption permitted. ASU 2012-02 only impacts the process of testing indefinite-lived intangible assets, other than goodwill, for impairment. Accordingly, the adoption of the standard in 2013 will have no impact on the Company's financial condition, results of operations or cash flows.

3. ACQUISITIONS

2012 Acquisitions:

Hyper Marketing Group

On November 30, 2012, the Company acquired all of the stock of HMI Holding Corp. and Solution Set Holding Corp. (collectively, "HMI"). The purchase price is subject to customary working capital adjustments. HMI offers ROI-based targeted marketing services through digital user experience design technology, customer relationship marketing, consumer promotions marketing, direct and digital shopper marketing, distributed and local area marketing, and analytical services that include brand planning and consumer insights. The results of HMI have been included since the date of acquisition and are reflected in the Company's Epsilon segment. The acquisition enhances Epsilon's core capabilities, strengthens its competitive advantage, expands Epsilon into new industry verticals and adds a talented team of marketing professionals.

Total consideration was $451.8 million, net of $7.1 million of cash and cash equivalents acquired. The goodwill that is expected to be deductible for tax purposes is $66.4 million. The following table summarizes the allocation of the consideration and the respective fair values of the assets acquired and liabilities assumed in the HMI acquisition as of the date of purchase:

	As of November 30, 2012
	(In thousands)
Current assets	$ 49,700
Deferred tax assets	12,050
Property and equipment	6,907
Other assets	118
Intangible assets	194,751
Goodwill	291,249
Total assets acquired	554,775
Current liabilities	33,928
Deferred tax liabilities	68,624
Other liabilities	420
Total liabilities assumed	102,972
Net assets acquired	$ 451,803

In connection with the HMI acquisition, on December 31, 2012, the Company acquired Advecor, Inc. ("Advecor"), a marketing services agency, for consideration of $12.2 million, net of $0.4 million of cash and cash equivalents acquired. Total assets acquired were $13.4 million, including $8.8 million of intangible assets and $3.0 million of goodwill, with current liabilities assumed of $1.2 million.

2011 Acquisition:

On May 31, 2011, the Company acquired all of the stock of Aspen Marketing Holdings, Inc. ("Aspen"). Aspen specializes in a full range of digital and direct marketing services, including the use of advanced analytics to perform data-driven customer acquisition and retention campaigns. Aspen is also a leading provider of marketing agency services, with expertise in the automotive and telecommunications industries. The results of Aspen have been included since the date of acquisition and are reflected in the Company's Epsilon segment. The acquisition enhanced Epsilon's core capabilities, strengthened its competitive advantage, expanded Epsilon into new industry verticals and added a talented team of marketing professionals.

The final purchase price for Aspen was $359.1 million, net of $13.5 million of cash and cash equivalents acquired. The goodwill resulting from the acquisition is not deductible for tax purposes. The following table summarizes the allocation of the consideration and the respective fair values of the assets acquired and liabilities assumed in the Aspen acquisition as of the date of purchase:

	As of May 31, 2011 (In thousands)
Current assets	$ 39,924
Property and equipment	4,829
Other assets	1,600
Capitalized software	24,000
Intangible assets	140,000
Goodwill	232,910
Total assets acquired	443,263
Current liabilities	30,099
Other liabilities	3,904
Deferred tax liabilities	50,184
Total liabilities assumed	84,187
Net assets acquired	$ 359,076

2010 Acquisition:

On July 1, 2010, the Company completed the acquisition of the Direct Marketing Services and Database Marketing divisions of Equifax, Inc. (collectively, "DMS"). The total purchase price was $117.0 million. DMS provides proprietary data-driven, integrated marketing solutions through two complementary offers: database marketing and hosting, and data services, including U.S. consumer demographic information.

The results of operations for DMS have been included since the date of acquisition and are reflected in the Company's Epsilon segment. The goodwill resulting from the acquisition is deductible for tax purposes.

The following table summarizes the fair values of the assets acquired and liabilities assumed in the DMS acquisition as of July 1, 2010:

	As of July 1, 2010 (In thousands)
Other current assets	$ 893
Property and equipment	2,290
Capitalized software	4,800
Identifiable intangible assets	67,600
Goodwill	43,874
Non-current assets	165
Total assets acquired	119,622
Current liabilities	2,622
Total liabilities assumed	2,622
Net assets acquired	$ 117,000

Pro forma information has not been included for these acquisitions, as the impact is not material.

4. DISCONTINUED OPERATIONS

In November 2009, the Company terminated the operation of its credit program for web and catalog retailer, VENUE. This disposition has been treated as a discontinued operation under ASC 205-20, "Presentation of Financial Statements – Discontinued Operations – Other Presentation Matters" and, accordingly, is reported as a discontinued operation. The underlying assets of the discontinued operation as of December 31, 2011 consisted of $2.4 million of credit card receivables, net. There were no underlying assets of the discontinued operation as of December 31, 2012. The operating results of the discontinued operation consisted of a $3.0 million increase to the provision for loan loss, or a $1.9 million after-tax loss, for the year ended December 31, 2010. There were no costs incurred for VENUE in the years ended December 31, 2011 and 2012.

5. CREDIT CARD RECEIVABLES

The Company's credit card receivables are the only portfolio segment or class of financing receivables. Quantitative information about the components of total credit card receivables is presented in the table below:

	December 31, 2012	December 31, 2011
	(In thousands)	
Principal receivables	$ 7,097,951	$ 5,408,862
Billed and accrued finance charges	291,476	221,357
Other receivables	60,205	35,792
Total credit card receivables	7,449,632	5,666,011
Less credit card receivables – restricted for securitization investors	6,597,120	4,886,168
Other credit card receivables	$ 852,512	$ 779,843

Allowance for Loan Loss

The Company maintains an allowance for loan loss at a level that is appropriate to absorb probable losses inherent in credit card receivables. The allowance for loan loss covers forecasted uncollectable principal as well as unpaid interest and fees. The allowance for loan loss is evaluated monthly for adequacy.

In estimating the allowance for principal loan losses, management utilizes a migration analysis of delinquent and current credit card receivables. Migration analysis is a technique used to estimate the likelihood that a credit card receivable will progress through the various stages of delinquency and to charge-off. The allowance is maintained through an adjustment to the provision for loan loss. Charge-offs of principal amounts, net of recoveries are deducted from the allowance.

Net charge-offs include the principal amount of losses from credit cardholders unwilling or unable to pay their account balances, as well as bankrupt and deceased credit cardholders, less recoveries and exclude charged-off interest, fees and fraud losses. Charged-off interest and fees reduce finance charges, net while fraud losses are recorded as an expense. Credit card receivables, including unpaid interest and fees, are charged-off at the end of the month during which an account becomes 180 days contractually past due, except in the case of customer bankruptcies or death. Credit card receivables, including unpaid interest and fees, associated with customer bankruptcies or death are charged-off at the end of each month subsequent to 60 days after the receipt of notification of the bankruptcy or death, but in any case, not later than the 180-day contractual time frame.

The Company records the actual charge-offs for unpaid interest and fees as a reduction to finance charges, net. For the years ended December 31, 2012, 2011 and 2010, actual charge-offs for unpaid interest and fees were $191.1 million, $199.0 million and $222.9 million, respectively. In estimating the allowance for uncollectable unpaid interest and fees, the Company utilizes historical charge-off trends, analyzing actual charge-offs for the prior three months. The allowance is maintained through an adjustment to finance charges, net. In evaluating the quantitative and qualitative factors as set forth below, the Company increased the allowance for loan loss attributable to unpaid interest and fees by $11.0 million for the year ended December 31, 2012.

In evaluating the allowance for loan loss for both principal and unpaid interest and fees, management also considers factors that may impact loan loss experience, including seasoning, loan volume and amounts, payment rates and forecasting uncertainties. The following table presents the Company's allowance for loan loss for the periods indicated:

	Years Ended December 31,		
	2012	2011	2010
	(In thousands)		
Balance at beginning of period	$ 468,321	$ 518,069	$ 54,884
Adoption of ASC 860 and ASC 810	—	—	523,950
Provision for loan loss	285,479	300,316	387,822
Change in estimate for uncollectible unpaid interest and fees	11,000	(5,000)	—
Recoveries	97,131	89,764	79,605
Principal charge-offs	(379,973)	(429,828)	(528,192)
Other	—	(5,000)	—
Balance at end of period	$ 481,958	$ 468,321	$ 518,069

Delinquencies

A credit card account is contractually delinquent if the Company does not receive the minimum payment by the specified due date on the cardholder's statement. It is the Company's policy to continue to accrue interest and fee income on all credit card accounts beyond 90 days, except in limited circumstances, until the credit card account balance and all related interest and other fees are paid or charged off, typically at 180 days delinquent. When an account becomes delinquent, a message is printed on the credit cardholder's billing statement requesting payment. After an account becomes 30 days past due, a proprietary collection scoring algorithm automatically scores the risk of the account becoming further delinquent. The collection system then recommends a collection strategy for the past due account based on the collection score and account balance and dictates the contact schedule and collections priority for the account. If the Company is unable to make a collection after exhausting all in-house collection efforts, the Company may engage collection agencies and outside attorneys to continue those efforts.

The following table presents the delinquency trends of the Company's credit card portfolio:

	December 31, 2012	% of Total	December 31, 2011	% of Total
	(In thousands, except percentages)			
Receivables outstanding - principal	$ 7,097,951	100%	$ 5,408,862	100%
Principal receivables balances contractually delinquent:				
31 to 60 days	100,479	1.4%	78,272	1.4%
61 to 90 days	62,546	0.9	51,709	1.0
91 or more days	120,163	1.7	105,626	2.0
Total	$ 283,188	4.0%	$ 235,607	4.4%

The practice of re-aging an account may affect credit card loan delinquencies and charge-offs. A re-age is intended to assist delinquent cardholders who have experienced financial difficulties but who demonstrate both an ability and willingness to repay the amounts due. Accounts meeting specific defined criteria are re-aged when the cardholder makes one or more consecutive payments aggregating a certain pre-defined amount of their account balance. With re-aging, the outstanding balance of a delinquent account is returned to a current status. For the years ended December 31, 2012, 2011 and 2010, the Company's re-aged accounts represented 1.3%, 1.9%, and 2.0%, respectively, of total credit card receivables for each period and thus do not have a significant impact on the Company's delinquencies or net charge-offs. The Company's re-aging practices comply with regulatory guidelines.

Modified Credit Card Receivables

The Company holds certain credit card receivables for which the terms have been modified. The Company's modified credit card receivables include credit card receivables for which temporary hardship concessions have been granted and credit card receivables in permanent workout programs. These modified credit card receivables include concessions consisting primarily of a reduced minimum payment and an interest rate reduction. The temporary programs' concessions remain in place for a period no longer than twelve months, while the permanent programs remain in place through the payoff of the credit card receivables if the credit cardholder complies with the terms of the program. These concessions do not include the forgiveness of unpaid principal, but may involve the reversal of certain unpaid interest or fee assessments. In the case of the temporary programs, at the end of the concession period, credit card receivable terms revert to standard rates. These arrangements are automatically terminated if the customer fails to make payments in accordance with the terms of the program, at which time their account reverts back to its original terms.

Credit card receivables for which temporary hardship and permanent concessions were granted are collectively evaluated for impairment. Modified credit card receivables are evaluated at their present value with impairment measured as the difference between the credit card receivable balance and the discounted present value of cash flows expected to be collected. Consistent with the Company's measurement of impairment of modified credit card receivables on a pooled basis, the discount rate used for credit card receivables is the average current annual percentage rate the Company applies to non-impaired credit card receivables, which approximates what would have been applied to the pool of modified credit card receivables prior to impairment. In assessing the appropriate allowance for loan loss, these modified credit card receivables are included in the general pool of credit cards with the allowance determined under the contingent loss model of ASC 450-20, "Loss Contingencies." If the Company applied accounting under ASC 310-40, "Troubled Debt Restructurings by Creditors," to the modified credit card receivables in these programs, there would not be a material difference in the allowance for loan loss.

The Company had $117.0 million and $122.2 million, respectively, as a recorded investment in impaired credit card receivables with an associated allowance for loan loss of $39.7 million and $45.3 million, respectively, as of December 31, 2012 and December 31, 2011. These modified credit card receivables represented less than 3% of the Company's total credit card receivables as of December 31, 2012 and December 31, 2011, respectively.

The average recorded investment in the impaired credit card receivables was $114.6 million and $131.2 million for the years ended December 31, 2012 and 2011, respectively.

Interest income on these modified credit card receivables is accounted for in the same manner as other accruing credit card receivables. Cash collections on these modified credit card receivables are allocated according to the same payment hierarchy methodology applied to credit card receivables that are not in such programs. The Company recognized $15.5 million, $13.8 million and $14.1 million for the years ended December 31, 2012, 2011 and 2010, respectively, in interest income associated with modified credit card receivables during the period that such credit card receivables were impaired.

The following tables indicate the modifications related to troubled debt restructurings within credit card receivables for the years ended December 31, 2012 and 2011:

	Year Ended December 31, 2012		
	Number of Restructurings	Pre-modification Outstanding Balance	Post-modification Outstanding Balance
		(Dollars in thousands)	
Troubled debt restructurings – credit card receivables	134,187	$ 119,985	$ 119,856

	Year Ended December 31, 2011		
	Number of Restructurings	Pre-modification Outstanding Balance	Post-modification Outstanding Balance
		(Dollars in thousands)	
Troubled debt restructurings – credit card receivables	157,930	$ 138,288	$ 136,213

The tables below summarize troubled debt restructurings that have defaulted during the years ended December 31, 2012 and 2011 where the default occurred within 12 months of their modification date:

	Year Ended December 31, 2012	
	Number of Restructurings	Outstanding Balance
	(Dollars in thousands)	
Troubled debt restructurings that subsequently defaulted – credit card receivables	55,198	$ 53,806

	Year Ended December 31, 2011	
	Number of Restructurings	Outstanding Balance
	(Dollars in thousands)	
Troubled debt restructurings that subsequently defaulted – credit card receivables	74,959	$ 73,677

Age of Credit Card Receivable Accounts

The following table sets forth, as of December 31, 2012, the number of active credit card accounts with balances and the related principal balances outstanding, based upon the age of the active credit card accounts from origination:

Age Since Origination	Number of Active Accounts with Balances	Percentage of Active Accounts with Balances	Principal Receivables Outstanding	Percentage of Principal Receivables Outstanding
	(In thousands, except percentages)			
0-12 Months	4,287	25.1%	$ 1,545,955	21.8%
13-24 Months	2,216	12.9	867,230	12.2
25-36 Months	1,580	9.2	676,362	9.5
37-48 Months	1,297	7.6	616,296	8.7
49-60 Months	1,053	6.2	502,217	7.1
Over 60 Months	6,681	39.0	2,889,891	40.7
Total	17,114	100.0%	$ 7,097,951	100.0%

Credit Quality

The Company uses proprietary scoring models developed specifically for the purpose of monitoring the Company's obligor credit quality. The proprietary scoring models are used as a tool in the underwriting process and for making credit decisions. The proprietary scoring models are based on historical data and require various assumptions about future performance. Information regarding customer performance is factored into these proprietary scoring models to determine the probability of an account becoming 90 or more days past due at any time within the next 12 months. Obligor credit quality is monitored at least monthly during the life of an account. The following table reflects composition by obligor credit quality as of December 31, 2012:

Probability of an Account Becoming 90 or More Days Past Due or Becoming Charged off (within the next 12 months)	Total Principal Receivables Outstanding	Percentage of Principal Receivables Outstanding
	(In thousands, except percentages)	
No Score [(1)]	$ 298,829	4.2%
27.1% and higher	286,046	4.0
17.1% - 27.0%	613,184	8.7
12.6% - 17.0%	713,489	10.1
3.7% - 12.5%	2,840,964	40.0
1.9% - 3.6%	1,492,289	21.0
Lower than 1.9%	853,150	12.0
Total	$ 7,097,951	100.0%

(1) Included in the No Score information is The Talbots, Inc. credit card portfolio, whose accounts have yet to be converted to the Company's credit card processing system. The conversion is expected to be completed in the first quarter of 2013.

Portfolio Acquisitions

During the years ended December 31, 2012 and 2011, the Company acquired the following credit card portfolios:

- August 2012 – The Talbots, Inc., for a total purchase price of $163.3 million, which remains subject to customary purchase price adjustments and consists of $133.4 million of credit card receivables and $29.9 million of intangible assets;
- July 2012 – The Bon-Ton Stores, Inc., for a total purchase price of $494.7 million, which consisted of $444.9 million of credit card receivables and $49.8 million of intangible assets;
- May 2012 – Premier Designs, Inc., for a total purchase price of $24.3 million, which consisted of $22.9 million of credit card receivables and $1.4 million of intangible assets;
- March 2012 – Pier 1 Imports, for a total purchase price of $97.7 million, which consisted of $96.2 million of credit card receivables and $1.5 million of intangible assets;
- November 2011 – Marathon Petroleum Corporation, for a total purchase price of $25.9 million, which consisted entirely of credit card receivables; and
- February 2011 – J.Jill, for a total purchase price of $42.7 million, which consisted of $37.9 million of credit card receivables and $4.8 million of intangible assets.

The credit card receivables and intangible assets associated with these portfolios are included in the December 31, 2012 and 2011 consolidated balance sheets.

Securitized Credit Card Receivables

The Company regularly securitizes its credit card receivables through its credit card securitization trusts, consisting of the WFN Trusts and the WFC Trust. The Company continues to own and service the accounts that generate credit card receivables held by the WFN Trusts and the WFC Trust. In its capacity as a servicer, each of the respective banks earns a fee from the WFN Trusts and the WFC Trust to service and administer the credit card receivables, collect payments, and charge-off uncollectible receivables. These fees are eliminated and therefore are not reflected in the consolidated statements of income as of December 31, 2012, 2011 and 2010.

The WFN Trusts and the WFC Trust are VIEs and the assets of these consolidated VIEs include certain credit card receivables that are restricted to settle the obligations of those entities and are not expected to be available to the Company or its creditors. The liabilities of the consolidated VIEs include asset-backed secured borrowings and other liabilities for which creditors or beneficial interest holders do not have recourse to the general credit of the Company.

During the initial phase of a securitization reinvestment period, the Company generally retains principal collections in exchange for the transfer of additional credit card receivables into the securitized pool of assets. During the amortization or accumulation period of a securitization, the investors' share of principal collections (in certain cases, up to a maximum specified amount each month) is either distributed to the investors or held in an account until it accumulates to the total amount due, at which time it is paid to the investors in a lump sum.

The Company is required to maintain minimum interests ranging from 4% to 10% of the securitized credit card receivables. This requirement is met through seller's interest, which is eliminated in the consolidated balance sheets, and is supplemented through excess funding deposits. Excess funding deposits represent cash amounts deposited with the trustee of the securitizations.

Cash collateral, restricted deposits are generally released proportionately as investors are repaid, although some cash collateral, restricted deposits are released only when investors have been paid in full. None of the cash collateral, restricted deposits were required to be used to cover losses on securitized credit card receivables in the periods ending December 31, 2012, 2011 and 2010, respectively.

The tables below present quantitative information about the components of total securitized credit card receivables, delinquencies and net charge-offs:

	December 31, 2012	December 31, 2011
	(In thousands)	
Total credit card receivables – restricted for securitization investors	$ 6,597,120	$ 4,886,168
Principal amount of credit card receivables – restricted for securitization investors, 90 days or more past due	$ 112,203	$ 94,981

	Years Ended December 31,		
	2012	2011	2010
	(In thousands)		
Net charge-offs of securitized principal	$ 265,305	$ 306,301	$ 398,926

6. REDEMPTION SETTLEMENT ASSETS

Redemption settlement assets consist of cash and cash equivalents and securities available-for-sale and are designated for settling redemptions by collectors of the AIR MILES Reward Program in Canada under certain contractual relationships with sponsors of the AIR MILES Reward Program. These assets are primarily denominated in Canadian dollars. Realized gains and losses from the sale of investment securities were not material. The principal components of redemption settlement assets, which are carried at fair value, are as follows:

	December 31, 2012				December 31, 2011			
	Cost	Unrealized Gains	Unrealized Losses	Fair Value	Cost	Unrealized Gains	Unrealized Losses	Fair Value
	(In thousands)							
Cash and cash equivalents	$ 40,266	$ —	$ —	$ 40,266	$ 35,465	$ —	$ —	$ 35,465
Government bonds	5,064	53	—	5,117	4,948	152	—	5,100
Corporate bonds	436,846	10,560	(99)	447,307	468,894	7,416	(1,037)	475,273
Total	$ 482,176	$ 10,613	$ (99)	$ 492,690	$ 509,307	$ 7,568	$ (1,037)	$ 515,838

The following tables show the gross unrealized losses and fair value for those investments that were in an unrealized loss position as of December 31, 2012 and 2011, aggregated by investment category and the length of time that individual securities have been in a continuous loss position:

	December 31, 2012					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(In thousands)					
Corporate bonds	$ 36,518	$ (99)	$ —	$ —	$ 36,518	$ (99)
Total	$ 36,518	$ (99)	$ —	$ —	$ 36,518	$ (99)

	December 31, 2011					
	Less than 12 months		12 Months or Greater		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(In thousands)					
Corporate bonds	$ 65,043	$ (444)	$ 18,124	$ (593)	$ 83,167	$ (1,037)
Total	$ 65,043	$ (444)	$ 18,124	$ (593)	$ 83,167	$ (1,037)

Market values were determined for each individual security in the investment portfolio. When evaluating the investments for other-than-temporary impairment, the Company reviews factors such as the length of time and extent to which fair value has been below cost basis, the financial condition of the security's issuer, and the Company's intent to sell the security and whether it is more likely than not that the Company will be required to sell the security before recovery of its amortized cost basis. The Company typically invests in highly-rated securities with low probabilities of default and has the ability to hold the investments until maturity. As of December 31, 2012, the Company does not consider the investments to be other-than-temporarily impaired.

The net carrying value and estimated fair value of the redemption settlement assets at December 31, 2012 by contractual maturity are as follows:

	Amortized Cost	Estimated Fair Value
	(In thousands)	
Due in one year or less	$ 114,362	$ 115,265
Due after one year through five years	367,814	377,425
Total	$ 482,176	$ 492,690

7. PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	December 31,	
	2012	2011
	(In thousands)	
Computer software and development	$ 293,727	$ 282,225
Furniture and equipment	225,062	202,268
Land, buildings and leasehold improvements	99,644	79,930
Capital leases	—	7,402
Construction in progress	59,417	26,373
Total	677,850	598,198
Accumulated depreciation	(424,822)	(402,801)
Property and equipment, net	$ 253,028	$ 195,397

Depreciation expense totaled $46.6 million, $44.8 million, and $42.5 million for the years ended December 31, 2012, 2011 and 2010, respectively, and includes purchased software and amortization of capital leases. Amortization associated with internally developed capitalized software totaled $30.0 million, $29.7 million, and $27.2 million for the years ended December 31, 2012, 2011 and 2010, respectively.

8. INTANGIBLE ASSETS AND GOODWILL

Intangible Assets

Intangible assets consist of the following:

	December 31, 2012			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
	(In thousands)			
Finite Lived Assets				
Customer contracts and lists	$ 440,200	$ (124,351)	$ 315,849	3-12 years—straight line
Premium on purchased credit card portfolios	237,800	(108,227)	129,573	5-10 years—straight line, accelerated
Customer database	161,700	(102,706)	58,994	4-10 years—straight line
Collector database	70,550	(63,980)	6,570	30 years—15% declining balance
Tradenames	59,102	(10,139)	48,963	4-15 years—straight line
Purchased data lists	14,540	(8,527)	6,013	1-5 years—straight line, accelerated
Favorable lease	3,291	(29)	3,262	10 years—straight line
Noncompete agreements	1,300	—	1,300	3 years—straight line
	$ 988,483	$ (417,959)	$ 570,524	
Indefinite Lived Assets				
Tradenames	12,350	—	12,350	Indefinite life
Total intangible assets	$ 1,000,833	$ (417,959)	$ 582,874	

	December 31, 2011			
	Gross Assets	Accumulated Amortization	Net	Amortization Life and Method
	(In thousands)			
Finite Lived Assets				
Customer contracts and lists	$ 314,245	$ (140,622)	$ 173,623	3-12 years—straight line
Premium on purchased credit card portfolios	156,203	(82,988)	73,215	5-10 years—straight line, accelerated
Customer databases	175,377	(96,363)	79,014	4-10 years—straight line
Collector database	68,652	(61,091)	7,561	30 years—15% declining balance
Tradenames	38,155	(7,411)	30,744	5 -15 years—straight line
Purchased data lists	23,776	(16,712)	7,064	1-5 years— straight line, accelerated
Noncompete agreements	1,045	(970)	75	2 years—straight line
	$ 777,453	$ (406,157)	$ 371,296	
Indefinite Lived Assets				
Tradenames	12,350	—	12,350	Indefinite life
Total intangible assets	$ 789,803	$ (406,157)	$ 383,646	

With the HMI acquisition on November 30, 2012, the Company acquired $194.8 million of intangible assets, consisting of $170.0 million of customer relationships, $21.5 million of trade names and $3.3 million for a favorable lease, which are being amortized over a weighted average life of 6.4 years, 8.7 years and 9.5 years, respectively. With the Advecor acquisition on December 31, 2012, the Company acquired $8.8 million of intangible assets, consisting of $7.5 million of customer relationships and $1.3 million of noncompete agreements, which are being amortized over a weighted average life of 3.5 years and 3.0 years, respectively.

With the Aspen acquisition on May 31, 2011, the Company acquired $140.0 million of intangible assets, consisting of $116.0 million of customer relationships and $24.0 million of trade names, which are being amortized over a weighted average life of 8.3 years and 15.0 years, respectively.

See Note 3, “Acquisitions,” for more information on the HMI, Advecor and Aspen acquisitions.

With the credit card portfolio acquisitions made during the year ended December 31, 2012, the Company acquired $82.6 million of intangible assets consisting of $44.5 million of customer relationships being amortized over a weighted average life of 5.0 years and $38.1 million of marketing relationships being amortized over a weighted average life of 6.6 years. With the credit card portfolio acquisitions made during the year ended December 31, 2011, the Company acquired $4.8 million of intangible assets consisting of $2.6 million of customer relationships and $2.2 million of marketing relationships, which are each being amortized over a weighted average life of 7.0 years. See Note 5, “Credit Card Receivables,” for additional information related to the credit card portfolio acquisitions.

Amortization expense related to the intangible assets was approximately $90.3 million, $78.7 million, and $73.5 million for the years ended December 31, 2012, 2011 and 2010, respectively.

The estimated amortization expense related to intangible assets for the next five years and thereafter is as follows:

	For Years Ending December 31,
	(In thousands)
2013	$ 127,879
2014	117,254
2015	93,360
2016	76,799
2017	51,160
2018 & thereafter	104,072

Goodwill

The changes in the carrying amount of goodwill for the years ended December 31, 2012 and 2011, respectively, are as follows:

	LoyaltyOne	Epsilon	Private Label Services and Credit	Corporate/ Other	Total
			(In thousands)		
December 31, 2010	$ 246,930	$ 713,161	$ 261,732	$ —	$ 1,221,823
Goodwill acquired during year	—	232,910	—	—	232,910
Effects of foreign currency translation	(5,233)	(137)	—	—	(5,370)
December 31, 2011	241,697	945,934	261,732	—	1,449,363
Goodwill acquired during year	—	294,275	—	—	294,275
Effects of foreign currency translation	6,373	1,042	—	—	7,415
December 31, 2012	$ 248,070	$ 1,241,251	$ 261,732	$ —	$ 1,751,053

For the year ended December 31, 2012, the Company acquired $294.3 million of goodwill of which $291.3 million resulted from the acquisition of HMI in November 2012 and $3.0 million resulted from the acquisition of Advecor in December 2012. For the year ended December 31, 2011, the $232.9 million of goodwill acquired resulted from the Aspen acquisition in May 2011. See Note 3, “Acquisitions,” for additional information.

The Company completed annual impairment tests for goodwill on July 31, 2012, 2011 and 2010 and determined at each date that no impairment exists. No further testing of goodwill impairments will be performed until July 31, 2013, unless events occur or circumstances indicate an impairment may have occurred.

9. ACCRUED EXPENSES

Accrued expenses consist of the following:

	December 31,	
	2012	2011
	(In thousands)	
Accrued payroll and benefits	$ 131,341	$ 113,083
Accrued taxes	48,202	30,447
Accrued marketing	28,876	17,255
Accrued other liabilities	66,206	45,836
Accrued expenses	$ 274,625	$ 206,621

10. DEBT

Debt consists of the following:

Description	December 31, 2012	December 31, 2011	Maturity	Interest Rate
	(Dollars in thousands)			
Long-term and other debt:				
2011 credit facility	$ —	$ 410,000	May 2016	—
2011 term loan	885,928	782,594	May 2016 or May 2017	(2)
Convertible senior notes due 2013	768,831	711,480	August 2013	1.75%
Convertible senior notes due 2014	304,333	279,365	May 2014	4.75%
Senior notes due 2017	395,734	—	December 2017	5.250%
Senior notes due 2020	500,000	—	April 2020	6.375%
Capital lease obligations and other debt	13	35	July 2013	7.10%
Total long-term and other debt	2,854,839	2,183,474		
Less: current portion	(803,269)	(19,834)		
Long-term portion	$ 2,051,570	$ 2,163,640		
Deposits:				
Certificates of deposit	$ 1,974,158	$ 1,353,775	Various - January 2013 – December 2019	0.20% to 5.25%
Money market deposits	254,253	—	On demand	0.01% to 0.26%
Total deposits	2,228,411	1,353,775		
Less: current portion	(1,092,753)	(642,567)		
Long-term portion	$ 1,135,658	$ 711,208		
Asset-backed securities debt – owed to securitization investors:				
Fixed rate asset-backed term note securities	$ 2,403,555	$ 1,562,815	Various - January 2013 – June 2019	1.68% to 7.00%
Floating rate asset-backed term note securities	545,700	703,500	Various - January 2013 – April 2013	(1)
Conduit asset-backed securities	1,181,715	993,972	Various - May 2013 – March 2014	1.20% to 1.70%
Total asset-backed securities – owed to securitization investors	4,130,970	3,260,287		
Less: current portion	(1,474,054)	(1,694,198)		
Long-term portion	$ 2,656,916	$ 1,566,089		

(1) Interest rates include those for certain of the Company's asset-backed securities – owed to securitization investors where floating rate debt is fixed through interest rate swap agreements. The interest rate for the floating rate debt is equal to the London Interbank Offered Rate ("LIBOR") plus a margin of 0.1% to 2.5%, each as defined in the respective agreements. The weighted average interest rate of the fixed rate achieved through interest rate swap agreements is 5.58% at December 31, 2012.

(2) At December 31, 2012, the weighted average interest rate for the 2011 Term Loan was 2.22%.

As of December 31, 2012, the Company was in compliance with its covenants.

Credit Agreement

The Company entered into a credit agreement, among the Company as borrower, and ADS Alliance Data Systems, Inc., ADS Foreign Holdings, Inc., Alliance Data Foreign Holdings, Inc., Epsilon Marketing Services, LLC, Epsilon Data Management LLC, Comenity LLC and Alliance Data FHC, Inc., as guarantors, and various agents and banks, dated May 24, 2011 (the "Credit Agreement"). Wells Fargo Bank, N.A. is the letter of credit issuer under the Credit

Agreement. The Credit Agreement provided for a $792.5 million term loan (the “2011 Term Loan”) and a $792.5 million revolving line of credit (the “2011 Credit Facility”) with a U.S. $65.0 million sublimit for Canadian dollar borrowings and a $65.0 million sublimit for swing line loans.

In March 2012, the Company entered into a second amendment (the "Second Amendment") to the Credit Agreement, through which the Company increased its 2011 Credit Facility by $125.0 million to $917.5 million. In addition, in March 2012, the Company borrowed additional term loans in the aggregate principal amount of $125.5 million, increasing the 2011 Term Loan to $903.1 million.

On December 31, 2012, Comenity Servicing LLC became a guarantor of the Credit Agreement.

Total availability under the 2011 Credit Facility at December 31, 2012 was $915.7 million.

The Credit Agreement provides an uncommitted accordion feature for up to $915.0 million in the aggregate to allow a maximum total facility size of $2.5 billion and (a) permits any incremental term loans to be secured in such collateral as may be agreed to by the Company and the banks advancing the incremental term loans, with the existing loans to be equally and ratably secured in the same collateral, (b) except with respect to terms relating to amortization and pricing of the incremental term loans, requires that the incremental term loans may not otherwise have terms and conditions materially different from those of the existing loans and (c) permits the co-administrative agents, the Company and the banks advancing the incremental term loans to amend the Credit Agreement, without further consent of any other banks, as necessary to allow the issuance of the incremental term loans.

The loans under the Credit Agreement are scheduled to mature on May 24, 2016 and certain of the term loans under the Credit Agreement were extended from May 24, 2016 to May 24, 2017. In addition, a mechanism was created by which, in the future, non-extending term loan lenders may extend their term loans to May 24, 2017.

The 2011 Term Loan provides for aggregate principal payments equal to 2.5% of the initial term loan amount in each of the first and second year and 5% of the initial term loan amount in each of the third, fourth and fifth year of the term loan, payable in equal quarterly installments beginning September 30, 2011. The Second Amendment provides for aggregate principal payments equal to 5% of the extended term loan amount in the additional year of the extended term loans, payable in equal quarterly installments. The Credit Agreement is unsecured.

Advances under the Credit Agreement are in the form of either base rate loans or Eurodollar loans and may be denominated in U.S. dollars or Canadian dollars. The interest rate for base rate loans denominated in U.S. dollars fluctuates and is equal to the highest of (i) the Bank of Montreal's prime rate; (ii) the Federal funds rate plus 0.5% and (iii) the LIBOR rate as defined in the Credit Agreement plus 1.0%, in each case plus a margin of 0.75% to 1.25% based upon the Company's senior leverage ratio as defined in the Credit Agreement. The interest rate for base rate loans denominated in Canadian dollars fluctuates and is equal to the higher of (i) the Bank of Montreal's prime rate for Canadian dollar loans and (ii) the Canadian Dollar Offered Rate ("CDOR") plus 1%, in each case plus a margin of 0.75% to 1.25% based upon the Company's senior leverage ratio as defined in the Credit Agreement. The interest rate for Eurodollar loans denominated in U.S. or Canadian dollars fluctuates based on the rate at which deposits of U.S. dollars or Canadian dollars, respectively, in the London interbank market are quoted plus a margin of 1.75% to 2.25% based upon the Company's senior leverage ratio as defined in the Credit Agreement.

The Credit Agreement contains usual and customary negative covenants for transactions of this type, including, but not limited to, restrictions on the Company's ability, and in certain instances, its subsidiaries' ability, to consolidate or merge; substantially change the nature of its business; sell, lease or otherwise transfer any substantial part of its assets; create or incur indebtedness; create liens; pay dividends; and make investments or acquisitions. The negative covenants are subject to certain exceptions as specified in the Credit Agreement. The Credit Agreement also requires the Company to satisfy certain financial covenants, including maximum ratios of total leverage and senior leverage as determined in accordance with the Credit Agreement and a minimum ratio of consolidated operating EBITDA to consolidated interest expense as determined in accordance with the Credit Agreement.

Convertible Senior Notes

Due 2013

In the third quarter of 2008, the Company issued $805.0 million aggregate principal amount of Convertible Senior Notes due 2013, which included an over-allotment of $105.0 million. Holders of the Convertible Senior Notes due 2013 have the right to require the Company to repurchase for cash all or some of their Convertible Senior Notes due 2013 upon the occurrence of certain fundamental changes.

The Convertible Senior Notes due 2013 are governed by an indenture dated July 29, 2008 between the Company and the Bank of New York Mellon Trust Company, National Association, as trustee. Pursuant to the indenture, the Convertible Senior Notes due 2013 are general unsecured senior obligations of the Company, pay interest semi-annually in arrears at a rate of 1.75% per annum on February 1 and August 1 of each year beginning February 1, 2009, will be convertible during certain periods and, under certain circumstances and subject to earlier repurchase by the Company or conversion, will mature on August 1, 2013. The Company may not redeem the Convertible Senior Notes due 2013 prior to their maturity date.

Holders may convert their Convertible Senior Notes due 2013 at their option at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date of the Convertible Senior Notes due 2013, in equal multiples of $1,000 principal amounts, under the following circumstances:

- during any fiscal quarter (and only during such fiscal quarter) after the fiscal quarter ending December 31, 2008, if the last reported sale price of the Company's common stock for at least 20 trading days in the period of 30 consecutive trading days ending on the last trading day of the immediately preceding fiscal quarter is equal to or more than 130% of the conversion price of $78.50 of the Convertible Senior Notes due 2013 on the last day of such preceding fiscal quarter;

- during the five business-day period after any five consecutive trading-day period, or the measurement period, in which the trading price per $1,000 principal amount of the Convertible Senior Notes due 2013 for each day of that measurement period was less than 98% of the product of the last reported sales price of the Company's common stock and the conversion rate of the Convertible Senior Notes due 2013 on each such day; or

- upon the occurrence of certain specified corporate transactions.

In addition, holders may convert their Convertible Senior Notes due 2013 at their option at any time beginning on April 2, 2013 and ending on the close of business on the second scheduled trading day immediately preceding the maturity date, without regard to the foregoing circumstances.

The Convertible Senior Notes due 2013 have an initial conversion rate of 12.7392 shares of common stock per $1,000 principal amount, which is equal to an initial conversion price of approximately $78.50 per share. Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of the Company's common stock or a combination thereof at the Company's election. It is the Company's current intention and policy to settle the principal amount (or the amount of the Company's conversion obligation, if less) of the Convertible Senior Notes due 2013 in cash upon conversion.

Concurrently with the pricing of the Convertible Senior Notes due 2013 and the exercise of the over-allotment option, the Company entered into convertible note hedge transactions with respect to its common stock (the "2013 Convertible Note Hedges") with J.P. Morgan Securities Inc., as agent to JPMorgan Chase Bank, National Association, London Branch, and Bank of America, N.A., affiliates of two of the initial purchasers (together, the "2013 Hedge Counterparties"). The 2013 Convertible Note Hedges cover, subject to customary anti-dilution adjustments, approximately 10.2 million shares of the Company's common stock at an initial strike price equal to the initial conversion price of the Convertible Senior Notes due 2013.

Separately but also concurrently with the pricing of the Convertible Senior Notes due 2013 and the exercise of the over-allotment option, the Company entered into warrant transactions whereby it sold to the 2013 Hedge Counterparties warrants to acquire, subject to customary anti-dilution adjustments, up to approximately 10.2 million shares of its common stock at an initial strike price of approximately $112.14 (the "2013 Convertible Note Warrants"). The 2013 Convertible Note Warrants will be exercisable and will expire in 79 equal tranches of 64,094 warrants and an 80th tranche of 64,102 warrants with respect to each of the 2013 Hedge Counterparties beginning on October 30, 2013 and continuing on each business day through February 25, 2014.

The cost of the 2013 Convertible Note Hedges, reduced by the proceeds to the Company from the sale of the 2013 Convertible Note Warrants, was approximately $107.6 million. The 2013 Convertible Note Hedges and 2013 Convertible Note Warrants are generally expected to offset the potential dilution of the Company's common stock upon conversion of the Convertible Senior Notes due 2013 to the extent that the Company's common stock price does not exceed $112.14 at the time of the exercise of the 2013 Convertible Note Warrants. The Company accounted for the 2013 Convertible Note Hedges and 2013 Convertible Note Warrants in accordance with the guidance in ASC 815-40 "Derivatives and Hedging—Contracts in Entity's Own Equity." The 2013 Convertible Note Hedges and 2013 Convertible Note Warrants meet the requirements under ASC 815-40 to be accounted for as equity instruments. Accordingly, the cost of the 2013 Convertible Note Hedges and the proceeds from the sale of the 2013 Convertible Note Warrants are included in additional paid-in capital in the consolidated balance sheets at December 31, 2012.

Due 2014

In the second quarter of 2009, the Company issued $345.0 million aggregate principal amount of Convertible Senior Notes due 2014, which included an over-allotment of $45.0 million. Holders of the Convertible Senior Notes due 2014 have the right to require the Company to repurchase for cash all or some of their Convertible Senior Notes due 2014 upon the occurrence of certain fundamental changes.

The Convertible Senior Notes due 2014 are governed by an indenture dated June 2, 2009 between the Company and the Bank of New York Mellon Trust Company, National Association, as trustee. Pursuant to the indenture, the Convertible Senior Notes due 2014 are general unsecured senior obligations of the Company, pay interest semi-annually in arrears at a rate of 4.75% per annum on May 15 and November 15 of each year beginning November 15, 2009, will be convertible during certain periods and under certain circumstances and, subject to earlier repurchase by the Company or conversion, will mature on May 15, 2014. The Company may not redeem the Convertible Senior Notes due 2014 prior to their maturity date.

Holders may convert their Convertible Senior Notes due 2014 at their option at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date of the Convertible Senior Notes due 2014, in equal multiples of $1,000 principal amounts, under the following circumstances:

- during any fiscal quarter (and only during such fiscal quarter) after the fiscal quarter ending December 31, 2009, if the last reported sale price of the Company's common stock for at least 20 trading days in the period of 30 consecutive trading days ending on the last trading day of the immediately preceding fiscal quarter is equal to or more than 130% of the conversion price of $47.57 of the Convertible Senior Notes due 2014 on the last day of such preceding fiscal quarter;

- during the five business-day period after any five consecutive trading-day period, or the measurement period, in which the trading price per $1,000 principal amount of the Convertible Senior Notes due 2014 for each day of that measurement period was less than 98% of the product of the last reported sales price of the Company's common stock and the conversion rate of the Convertible Senior Notes due 2014 on each such day; or

- upon the occurrence of certain specified corporate transactions.

In addition, holders may convert their Convertible Senior Notes due 2014 at their option at any time beginning on January 13, 2014 and ending on the close of business on the second scheduled trading day immediately preceding the maturity date, without regard to the foregoing circumstances.

The Convertible Senior Notes due 2014 have an initial conversion rate of 21.0235 shares of common stock per $1,000 principal amount, which is equal to an initial conversion price of approximately $47.57 per share. Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of the Company's common stock or a combination thereof at the Company's election. It is the Company's current intention and policy to settle the principal amount (or the amount of the Company's conversion obligation, if less) of the Convertible Senior Notes due 2014 in cash upon conversion.

Concurrently with the pricing of the Convertible Senior Notes due 2014 and the exercise of the over-allotment option, the Company entered into convertible note hedge transactions with respect to its common stock with the following affiliates of three of the initial purchasers: J.P. Morgan Securities Inc., as agent to JPMorgan Chase Bank, National Association, London Branch; Bank of America, N.A.; and Barclays Capital Inc., as agent for Barclays Bank PLC (together, the "2014 Hedge Counterparties"), which cover, subject to customary anti-dilution adjustments, approximately 7.3 million shares of the Company's common stock at an initial strike price equal to the initial conversion price of the Convertible Senior Notes due 2014 (the "2014 Convertible Note Hedges").

Separately but also concurrently with the pricing of the Convertible Senior Notes due 2014 and the exercise of the over-allotment option, the Company entered into warrant transactions whereby it sold to the 2014 Hedge Counterparties warrants to acquire, subject to customary anti-dilution adjustments, up to approximately 7.3 million shares of its common stock at an initial strike price of approximately $70.54 (the "2014 Convertible Note Warrants"). The 2014 Convertible Note Warrants will be exercisable and will expire in 79 equal tranches of 45,331 warrants and an 80th tranche of 45,405 warrants for one of the 2014 Hedge Counterparties and will be exercisable and will expire in 79 equal tranches of 22,665 warrants and an 80th tranche of either 22,741 or 22,743 warrants with respect to the remaining two 2014 Hedge Counterparties, beginning on August 13, 2014 and continuing on each business day through December 4, 2014 as to each of the 2014 Hedge Counterparties.

The cost of the 2014 Convertible Note Hedges, reduced by the proceeds to the Company from the sale of the 2014 Convertible Note Warrants, was approximately $50.7 million. The 2014 Convertible Note Hedges and 2014 Convertible Note Warrants are generally expected to offset the potential dilution of the Company's common stock upon conversion of the Convertible Senior Notes due 2014 to the extent that the Company's common stock price does not exceed $70.54 at the time of the exercise of the 2014 Convertible Note Warrants. The Company accounted for the 2014 Convertible Note Hedges and 2014 Convertible Note Warrants as equity instruments in accordance with the guidance in ASC 815-40. Accordingly, the cost of the 2014 Convertible Note Hedges and the proceeds from the sale of the 2014 Convertible Note Warrants are included in additional paid-in capital in the consolidated balance sheets at December 31, 2012.

Concurrently with the pricing of the Convertible Senior Notes due 2014, the Company entered into prepaid forward transactions (the "Prepaid Forwards") with Merrill Lynch, Pierce, Fenner & Smith Incorporated, as agent for Merrill Lynch International, and Barclays Capital Inc., as agent for Barclays Bank PLC (collectively, the "Forward Counterparties"). Under the Prepaid Forwards, the Company purchased 1,857,400 shares of its common stock for approximately $74.9 million with proceeds from the offering. The shares are to be delivered over a settlement period in 2014. Each of the Prepaid Forwards is subject to early settlement, in whole or in part, at any time prior to the final settlement date at the option of the applicable Forward Counterparty, as well as early settlement or settlement with alternative consideration in the event of certain corporate transactions. In the event the Company pays any cash dividends on its common stock, the Forward Counterparties will pay an equivalent amount to the Company. The shares under the Prepaid Forwards were accounted for as a repurchase of common stock and a reduction of stockholders' equity.

The table below summarizes the carrying value of the components of the convertible senior notes:

	December 31,	
	2012	2011
	(In millions)	
Carrying amount of equity component	$ 368.7	$ 368.7
Principal amount of liability component	$ 1,150.0	$ 1,150.0
Unamortized discount	(76.8)	(159.2)
Net carrying value of liability component	$ 1,073.2	$ 990.8
If-converted value of common stock	$ 2,534.4	$ 1,818.0

The discount on the liability component will be amortized as interest expense over the remaining life of the convertible senior notes which, at December 31, 2012, is a weighted-average period of 0.8 years.

Interest expense on the convertible senior notes recognized in the Company's consolidated statements of income for the years ended December 31, 2012, 2011 and 2010 is as follows:

	Years Ended December 31,		
	2012	2011	2010
	(In thousands, except percentages)		
Interest expense calculated on contractual interest rate	$ 30,475	$ 30,475	$ 30,475
Amortization of discount on liability component	82,366	73,787	66,131
Total interest expense on convertible senior notes	$ 112,841	$ 104,262	$ 96,606
Effective interest rate (annualized)	11.0%	11.0%	11.0%

Both the Convertible Senior Notes due 2013 and the Convertible Senior Notes due 2014 are convertible at the option of the holder based on the condition that the common stock trading price exceeded 130% of the applicable conversion price. In the third and fourth quarters of 2012, a de minimis amount of convertible senior notes were surrendered for conversion and, in each case, either have been or will be settled in cash following the completion of the applicable cash settlement averaging period.

Senior Notes

Due 2017

In November 2012, the Company issued and sold $400 million aggregate principal amount of 5.250% senior notes due December 1, 2017 (the "Senior Notes due 2017") at an issue price of 98.912% of the aggregate principal amount. The Senior Notes due 2017 accrue interest on the principal amount at the rate of 5.250% per annum from November 20, 2012, payable semiannually in arrears, on June 1 and December 1 of each year, beginning on June 1, 2013. The unamortized discount at the time of issuance was $4.3 million. The discount is being amortized using the effective interest method over the remaining life of the Senior Notes due 2017 which, at December 31, 2012, is a period of 4.9 years at an effective annual interest rate of 5.5%.

The payment obligations under the Senior Notes due 2017 are governed by an indenture dated November 20, 2012 with Wells Fargo Bank, N.A., as trustee. The Senior Notes due 2017 are unsecured and are guaranteed on a senior unsecured basis by certain of the Company's existing and future domestic subsidiaries that guarantee its Credit Agreement, including ADS Alliance Data Systems, Inc., ADS Foreign Holdings, Inc., Alliance Data Foreign Holdings, Inc., Epsilon Marketing Services, LLC, Epsilon Data Management LLC, Comenity LLC, Alliance Data FHC, Inc. and Comenity Servicing LLC. The indenture includes usual and customary negative covenants and events of default for transactions of this type.

Due 2020

In March 2012, the Company issued and sold $500 million aggregate principal amount of 6.375% senior notes due April 1, 2020 (the "Senior Notes due 2020"). The Senior Notes due 2020 accrue interest on the principal amount at the rate of 6.375% per annum from March 29, 2012, payable semiannually in arrears, on April 1 and October 1 of each year, beginning on October 1, 2012. The proceeds from the issuance of the Senior Notes due 2020 were used to repay outstanding indebtedness under the Company's Credit Agreement.

The payment obligations under the Senior Notes due 2020 are governed by an indenture dated March 29, 2012 with Wells Fargo Bank, N.A., as trustee. The Senior Notes due 2020 are unsecured and are guaranteed on a senior unsecured basis by certain of the Company's existing and future domestic subsidiaries that guarantee its Credit Agreement, including ADS Alliance Data Systems, Inc., ADS Foreign Holdings, Inc., Alliance Data Foreign Holdings, Inc., Epsilon Marketing Services, LLC, Epsilon Data Management LLC, Comenity LLC, Alliance Data FHC, Inc. and Comenity Servicing LLC. The indenture includes usual and customary negative covenants and events of default for transactions of this type.

Deposits

Terms of the certificates of deposit range from two months to seven years with annual interest rates ranging from 0.20% to 5.25%, with a weighted average interest rate of 1.18%, at December 31, 2012 and 0.15% to 5.25%, with a weighted average interest rate of 1.54%, at December 31, 2011. Interest is paid monthly and at maturity.

Beginning January 1, 2012, Comenity Bank and Comenity Capital Bank offered a demand deposit program through contractual arrangements with securities brokerage firms. As of December 31, 2012, Comenity Bank and Comenity Capital Bank had issued $254.3 million in money market deposits. Money market deposits are redeemable on demand by the customer and, as such, have no scheduled maturity date.

Asset-Backed Securities – Owed to Securitization Investors

An asset-backed security is a security whose value and income payments are derived from and collateralized (or "backed") by a specified pool of underlying assets. The sale of the pool of underlying assets to general investors is accomplished through a securitization process. The Company regularly sells its credit card receivables to its credit card securitization trusts, the WFN Trusts and the WFC Trust, which are consolidated on the balance sheets of the Company under ASC 860 and ASC 810. The liabilities of the consolidated VIEs include asset-backed securities for which creditors or beneficial interest holders do not have recourse to the general credit of the Company.

Asset-Backed Term Notes

In April 2006, Master Trust I issued $500.0 million of term asset-backed securities to investors. The offering consisted of $395.0 million of Class A Series 2006-A asset-backed term notes that have a variable interest rate based on LIBOR as defined in the offering plus a 0.13% spread per year, $18.8 million of Class M Series 2006-A asset-backed term notes that have a variable interest rate based on LIBOR as defined in the offering plus a 0.21% spread per year, $23.7 million of Class B Series 2006-A asset-backed term notes that have a variable interest rate based on LIBOR as defined in the offering plus a 0.35% spread per year and $62.5 million of Class C Series 2006-A asset-backed term notes that have a variable interest rate based on LIBOR as defined in the offering plus a 0.60% spread per year. The variable interest rates are swapped to a specified fixed interest rate of 5.32%, plus the respective spread percentage for each note. These notes will mature in April 2013.

In August 2009, Master Trust I issued $949.3 million of term asset-backed securities to investors, including those participating in the U.S. government's Term Asset-Backed Securities Loan Facility ("TALF") program. The offering consisted of $500.0 million of Series 2009-B asset-backed term notes (the "2009 Series B Notes"), $139.2 million of Series 2009-C asset-backed term notes (the "2009 Series C Notes") and $310.1 million of Series 2009-D asset-backed term notes (the "2009 Series D Notes"). The 2009 Series D Notes will mature in July 2013 and are comprised of $245.0 million of Class A notes that have a fixed interest rate of 4.66% per year, and an aggregate of $65.1 million of subordinated classes of the term asset-backed notes that were retained by the Company and are eliminated from the consolidated financial statements. The 2009 Series C Notes and the 2009 Series B Notes matured and were repaid in July 2010 and July 2012, respectively.

In October 2009, as part of the Charming Shoppes acquisition, the Company assumed operations associated with Charming Shoppes' securitization master trust, which became Master Trust II. In 2007, the former Charming Shoppes' securitization master trust issued $320.0 million of asset-backed securities to investors. The offering consisted of $211.2 million of Class A Series 2007-1 asset-backed term notes (the "2007 Series A Notes"), $19.2 million of Class M Series 2007-1 asset-backed term notes (the "2007 Series M Notes"), $30.4 million of Class B Series 2007-1 asset-backed term notes (the "2007 Series B Notes"), $28.8 million of Class C Series 2007-1 asset-backed term notes ("2007 Series C Notes"), and $30.4 million of Class D Series 2007-1 asset-backed term notes (the "2007 Series D Notes"). The 2007 Series B Notes matured in January 2013 and are comprised of $16.9 million of Class B-1 notes that have a variable interest rate based on LIBOR as defined in the offering plus a 2.00% spread per year, swapped to a specified fixed interest rate of 5.08% plus the respective spread percentage, and $13.5 million of Class B-2 notes that have a fixed interest rate of 6.91%. The 2007 Series C Notes matured in February 2013 and have a variable interest rate based on LIBOR as defined in the offering plus a 2.50% spread per year. The 2007 Series D Notes were retained by the Company and are eliminated from the consolidated financial statements. The 2007 Series A and Series M Notes matured and were repaid in November 2012 and December 2012, respectively.

In March 2010, Master Trust II issued $100.8 million of term asset-backed securities to investors. The offering consisted of $65.0 million of Class A Series 2010-1 asset-backed notes that have a fixed interest rate of 4.16% per year, $9.8 million of Class M Series 2010-1 asset-backed notes that have a fixed interest rate of 5.25% per year, $6.6 million of Class B Series 2010-1 asset-backed notes that have a fixed interest rate of 6.25% per year, $11.6 million of Class C Series 2010-1 asset-backed notes that have a fixed interest rate of 7.00% per year and $7.8 million of Class D Series 2010-1 zero-coupon notes that were retained by the Company. The Class B Series 2010-1 notes matured in January 2013, the Class C Series 2010-1 notes matured in February 2013 and the Class D Series 2010-1 notes will mature in March 2013. The Class D Series 2010-1 notes are eliminated from the consolidated financial statements. The Class A and Class M Series 2010-1 notes matured and were repaid in November 2012 and December 2012, respectively.

In July 2010, Master Trust I issued $450.0 million of term asset-backed securities to investors. The offering consisted of $355.5 million of Class A Series 2010-A asset-backed notes that have a fixed interest rate of 3.96% per year, $16.9 million of Class M Series 2010-A asset-backed notes that have a fixed interest rate of 5.20% per year, $21.4 million of Class B Series 2010-A asset-backed notes that have a fixed interest rate of 6.75% per year and $56.2 million of Class C Series 2010-A asset-backed notes that have a fixed interest rate of 5.00% per year. The Class A, Class M, Class B and Class C notes will all mature in June 2015. The Class C Series 2010-A notes were retained by the Company and are eliminated from the consolidated financial statements.

In November 2011, Master Trust I issued $443.0 million of term asset-backed securities to investors. The offering consisted of $316.5 million of Series 2011-A asset-backed term notes (the “Series 2011 A Notes”) and $126.5 million of Series 2011-B asset-backed term notes (the “Series 2011 B Notes”). The Series 2011 A Notes will mature in October 2014 and are comprised of $250.0 million of Class A notes that have a fixed interest rate of 1.68% per year, and an aggregate of $66.5 million of subordinated classes of the term asset-backed notes that were retained by the Company and are eliminated from the consolidated financial statements. The Series 2011 B Notes will mature in October 2016 and are comprised of $100.0 million of Class A notes that have a fixed interest rate of 2.45% per year, and an aggregate of $26.5 million of subordinated classes of the term asset-backed notes that were retained by the Company and are eliminated from the consolidated financial statements.

In April 2012, Master Trust I issued $550.0 million of term asset-backed securities to investors. The offering consisted of $412.5 million of Class A Series 2012-A asset-backed term notes that have a fixed interest rate of 3.14% per year and mature in March 2019, and an aggregate of $137.5 million of subordinated classes of the term asset-backed notes that were retained by the Company and are eliminated from the consolidated financial statements.

In July 2012, Master Trust I issued $433.3 million of term asset-backed securities to investors. The offering consisted of $325.0 million of Class A Series 2012-B asset-backed term notes that have a fixed interest rate of 1.76% per year and mature in July 2017. In addition, the Company retained an aggregate of $108.3 million of subordinated classes of the term asset-backed notes that have been eliminated from the consolidated financial statements.

In July 2012, Master Trust I issued $266.7 million of term asset-backed securities to investors, which will mature in October 2018. The offering consisted $200.0 million of Class A Series 2012-C asset-backed notes with a fixed interest rate of 2.23% per year, $10.0 million of Class M Series 2012-C asset-backed notes with a fixed interest rate of 3.32% per year, $12.7 million of Class B Series 2012-C asset-backed notes with a fixed interest rate of 3.57% per year, $33.3 million of Class C Series 2012-C asset-backed notes with a fixed interest rate of 4.55% per year and $10.7 million of Class D Series 2012-C asset-backed notes that were retained by the Company and have been eliminated from the consolidated financial statements.

In October 2012, Master Trust I issued $466.7 million of term asset-backed securities to investors, which will mature in June 2019. The offering consisted of $350.0 million of Class A Series 2012-D asset-backed notes with a fixed interest rate of 2.15% per year, $17.5 million of Class M Series 2012-D asset-backed notes with a fixed interest rate of 3.09% per year, $22.2 million of Class B Series 2012-D asset-backed notes with a fixed interest rate of 3.34% per year and $77.0 million of Class C and Class D Series 2012-D asset-backed notes that were retained by the Company and have been eliminated from the consolidated financial statements.

Proceeds from the issuance of the asset-backed securities in April, July and October 2012 were used in the repayment of asset-backed securities that matured in 2012.

Conduit Facilities

The Company has access to committed undrawn capacity through three conduit facilities to support the funding of its credit card receivables through Master Trust I, Master Trust III and the WFC Trust. As of December 31, 2012, total capacity under the conduit facilities was $1.9 billion, of which $1.2 billion had been drawn and was included in asset-backed securities debt in the consolidated balance sheets. Borrowings outstanding under each facility bear interest at a margin above LIBOR or the asset-backed commercial paper costs of each individual conduit provider. The conduits have varying maturities from May 2013 to March 2014 with variable interest rates ranging from 1.20% to 1.70% as of December 31, 2012.

Maturities

Debt at December 31, 2012 matures as follows:

Year	Long-term and Other Debt	Asset-backed Securities Debt and Deposits	Total
		(In thousands)	
2013 (1)	$ 839,397	$ 2,566,807	$ 3,406,204
2014 (2)	390,893	1,250,662	1,641,555
2015	45,900	652,532	698,432
2016	80,775	274,409	355,184
2017 (3)	1,078,928	486,139	1,565,067
Thereafter	500,000	1,128,832	1,628,832
Total maturities	2,935,893	6,359,381	9,295,274
Unamortized discount (4)	(81,054)	—	(81,054)
	$ 2,854,839	$ 6,359,381	$ 9,214,220

(1) Long-term and Other Debt includes $805.0 million representing the aggregate principal amount of the Convertible Senior Notes due 2013.

(2) Long-term and Other Debt includes $345.0 million representing the aggregate principal amount of the Convertible Senior Notes due 2014.

(3) Long-term and Other Debt includes $400.0 million representing the aggregate principal amount of the Senior Notes due 2017.

(4) Unamortized discount consists of $76.8 million for the convertible senior notes and $4.3 million for the Senior Notes due 2017, respectively.

Derivative Instruments

As part of its interest rate risk management program, the Company may enter into derivative contracts with institutions that are established dealers to manage its exposure to changes in interest rates for certain obligations.

The credit card securitization trusts enter into derivative instruments, which include both interest rate swaps and an interest rate cap, to mitigate their interest rate risk on related financial instruments or to lock the interest rate on a portion of their variable asset-backed securities debt.

These interest rate derivative instruments involve the receipt of variable rate amounts from counterparties in exchange for the Company making fixed rate payments over the life of the agreement without the exchange of the underlying notional amount. These interest rate derivative instruments are not designated as hedges. Such instruments are not speculative and are used to manage interest rate risk, but do not meet the specific hedge accounting requirements of ASC 815, “Derivatives and Hedging.”

The following tables identify the notional amount, fair value and classification of the Company’s outstanding interest rate derivatives at December 31, 2012 and 2011 in the consolidated balance sheets:

	December 31, 2012		December 31, 2011	
	Notional Amount	Weighted Average Years to Maturity	Notional Amount	Weighted Average Years to Maturity
	(Dollars in thousands)			
Interest rate derivatives not designated as hedging instruments	$ 545,700	0.51	$ 703,500	1.37

	December 31, 2012		December 31, 2011	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
		(In thousands)		
Interest rate derivatives not designated as hedging instruments	Other assets	$ 4	Other assets	$ —
Interest rate derivatives not designated as hedging instruments	Other current liabilities	$ 8,515	Other current liabilities	$ 4,739
Interest rate derivatives not designated as hedging instruments	Other liabilities	$ —	Other liabilities	$ 33,364

During the years ended December 31, 2012, 2011 and 2010, gains on derivative instruments of $29.6 million, $31.7 million and $8.7 million, respectively, were recognized in securitization funding costs within the consolidated statements of income.

The Company limits its exposure on derivatives by entering into contracts with institutions that are established dealers who maintain certain minimum credit criteria established by the Company. At December 31, 2012, the Company does not maintain any derivative instruments subject to master agreements that would require the Company to post collateral or that contain any credit-risk related contingent features. The Company has provisions in certain of the master agreements that require counterparties to post collateral to the Company when their credit ratings fall below certain thresholds. At December 31, 2012, these thresholds were not breached and no amounts were held as collateral by the Company.

11. DEFERRED REVENUE

Because management has determined that the earnings process is not complete at the time an AIR MILES reward mile is issued, the recognition of revenue on all fees received at issuance is deferred. Amounts for revenue related to the redemption element and service element are recorded in redemption revenue and transaction revenue, respectively, in the consolidated statements of income.

The Company allocates the proceeds from the issuance of AIR MILES reward miles into two components as follows:

- *Redemption element.* The redemption element is the larger of the two components. Revenue related to the redemption element is based on the estimated fair value. For this component, revenue is recognized at the time an AIR MILES reward mile is redeemed, or for those AIR MILES reward miles that are estimated to go unredeemed by the collector base, known as “breakage,” over the estimated life of an AIR MILES reward mile, or a period of 42 months. The estimated life of an AIR MILES reward mile and breakage are actively monitored by the Company.

- *Service element.* The service element consists of marketing and administrative services. Revenue related to the service element is determined in accordance with ASU 2009-13. It is initially deferred and then amortized pro rata over the estimated life of an AIR MILES reward mile. With the adoption of ASU 2009-13, the residual method is no longer utilized for new sponsor agreements entered into or existing sponsor agreements materially modified; for these agreements, the Company measures the service element at its estimated selling price.

Under certain of the Company’s contracts, a portion of the proceeds is paid to the Company upon the issuance of an AIR MILES reward mile and a portion is paid at the time of redemption and therefore, the Company does not have a redemption obligation related to these contracts. Revenue is recognized at the time of redemption and is not reflected in the reconciliation of the redemption obligation detailed below. Under such contracts, the proceeds received at issuance are initially deferred as service revenue and revenue is recognized pro rata over the estimated life of an AIR MILES reward mile. Effective from December 31, 2011, LoyaltyOne implemented an expiry policy, such that all existing and future AIR MILES reward miles will have an expiry of five years.

In December 2011, LoyaltyOne introduced a new program option, AIR MILES Cash. Collectors have the ability to allocate some or all of their future AIR MILES reward miles collected into AIR MILES Cash, but collectors do not have the ability to transfer existing or future AIR MILES reward miles collected between the two program options. Effective March 2012, collectors can instantly redeem their AIR MILES reward miles collected in AIR MILES Cash towards in-store purchases at participating sponsors.

Breakage is the estimate of AIR MILES reward miles issued that the Company has received compensation for, but will go unused by the collector base and not be redeemed. It is based on management’s estimate after viewing and analyzing various historical trends including vintage analysis, current run rates and other pertinent factors, such as the impact of macroeconomic factors and changes in the program structure, which in 2012 included the implementation of a five year expiry policy, the removal of certain low mileage reward options and the introduction of a new program option, AIR MILES Cash. Effective December 31, 2012, the Company determined that its estimate of breakage changed from 28% to 27%. The change in estimate will have no impact on the total redemption liability of $869.0 million, but reduced the amount of deferred breakage by approximately $59.0 million that was to be recognized over the expected remaining life of the AIR MILES reward mile.

A reconciliation of deferred revenue for the AIR MILES Reward Program is as follows:

	Deferred Revenue		
	Service	Redemption	Total
		(In thousands)	
December 31, 2010	$ 339,514	$ 881,728	$ 1,221,242
Cash proceeds	220,128	577,098	797,226
Revenue recognized	(192,284)	(572,499)	(764,783)
Other	—	1,228	1,228
Effects of foreign currency translation	(8,385)	(20,092)	(28,477)
December 31, 2011	358,973	867,463	1,226,436
Cash proceeds	216,772	570,439	787,211
Revenue recognized	(205,740)	(593,679)	(799,419)
Other	—	1,000	1,000
Effects of foreign currency translation	10,008	23,825	33,833
December 31, 2012	$ 380,013	$ 869,048	$ 1,249,061
Amounts recognized in the consolidated balance sheets:			
Current liabilities	$ 186,275	$ 869,048	$ 1,055,323
Non-current liabilities	$ 193,738	$ —	$ 193,738

12. COMMITMENTS AND CONTINGENCIES

Cyber Incident

On March 30, 2011, an incident was detected where a subset of Epsilon clients' customer data was exposed by an unauthorized entry into Epsilon's email system. The information obtained was limited to email addresses and/or customer names only. Client marketing campaigns were restarted and Epsilon's email volumes were not significantly impacted. The Company did not incur any significant costs arising from the incident. The incident did not have a material impact to the Company's liquidity, capital resources or results of operations.

AIR MILES Reward Program

The Company has entered into contractual arrangements with certain AIR MILES Reward Program sponsors that result in fees being billed to those sponsors upon the redemption of AIR MILES reward miles issued by those sponsors. The Company has obtained letters of credit and other assurances from those sponsors for the Company's benefit that expire at various dates. These letters of credit and other assurances totaled $188.9 million at December 31, 2012, which exceeds the amount of the Company's estimate of its obligation to provide travel and other rewards upon the redemption of the AIR MILES reward miles issued by those sponsors.

The Company currently has an obligation to provide AIR MILES Reward Program collectors with travel and other rewards upon the redemption of AIR MILES reward miles. The Company believes that the redemption settlements assets, including the letters of credit and other assurances mentioned above, are sufficient to meet that obligation.

The Company has entered into certain long-term arrangements to purchase tickets from airlines and other suppliers in connection with redemptions under the AIR MILES Reward Program. These long-term arrangements allow the Company to make purchases at set prices.

Leases

The Company leases certain office facilities and equipment under noncancellable operating leases and is generally responsible for property taxes and insurance related to such facilities. Lease expense was $71.5 million, $61.4 million, and $54.4 million for the years ended December 31, 2012, 2011 and 2010, respectively.

Future annual minimum rental payments required under noncancellable operating and capital leases, some of which contain renewal options, as of December 31, 2012, are:

Year	Operating Leases	Capital Leases
	(In thousands)	
2013	$ 63,532	$ 14
2014	54,060	—
2015	46,337	—
2016	39,582	—
2017	34,216	—
Thereafter	56,737	—
Total	$ 294,464	14
Less amount representing interest		(1)
Total present value of minimum lease payments		$ 13

Regulatory Matters

In 2011, Comenity Bank converted from a national banking association and limited purpose credit card bank to a Delaware State FDIC-insured bank and limited purpose credit card bank. Comenity Bank is regulated, supervised and examined by the State of Delaware and the Federal Deposit Insurance Corporation (“FDIC”). As a result, agreements previously entered into with, or required by, the Office of the Comptroller of the Currency, the bank’s former primary regulator, were also terminated. Comenity Bank remains subject to regulation by the Board of the Governors of the Federal Reserve System. The Company’s industrial bank, Comenity Capital Bank, is authorized to do business by the State of Utah and the FDIC.

Quantitative measures established by regulations to ensure capital adequacy require Comenity Bank and Comenity Capital Bank to maintain minimum amounts and ratios of total and Tier 1 capital to risk weighted assets and of Tier 1 capital to average assets as well as adequate allowances for loan losses. Under the regulations, a “well capitalized” institution must have a Tier 1 capital ratio of at least 6%, a total capital ratio of at least 10% and a leverage ratio of at least 5% and not be subject to a capital directive order. An “adequately capitalized” institution must have a Tier 1 capital ratio of at least 4%, a total capital ratio of at least 8% and a leverage ratio of at least 4%, but 3% is allowed in some cases. Under these guidelines, Comenity Bank and Comenity Capital Bank are considered well capitalized. As of December 31, 2012, Comenity Capital Bank’s Tier 1 capital ratio was 16.4%, total capital ratio was 17.7% and leverage ratio was 16.5%, and Comenity Capital Bank was not subject to a capital directive order. As of December 31, 2012, Comenity Bank’s Tier 1 capital ratio was 14.3%, total capital ratio was 15.6% and leverage ratio was 14.7%, and Comenity Bank was not subject to a capital directive order.

Cardholders

The Company’s Private Label Services and Credit segment is active in originating private label and co-branded credit cards in the United States. The Company reviews each potential customer’s credit application and evaluates the applicant’s financial history and ability and perceived willingness to repay. Credit card loans are made primarily on an unsecured basis. Cardholders reside throughout the United States and are not significantly concentrated in any one area.

Holders of credit cards issued by the Company have available lines of credit, which vary by cardholders that can be used for purchases of merchandise offered for sale by clients of the Company. These lines of credit represent elements of risk in excess of the amount recognized in the financial statements. The lines of credit are subject to change or cancellation by the Company. As of December 31, 2012, the Company had approximately 37.9 million cardholders, having unused lines of credit averaging $1,278 per account.

Legal Proceedings

From time to time the Company is involved in various claims and lawsuits arising in the ordinary course of business that it believes will not have a material effect on its business, financial condition or cash flows, including claims and lawsuits alleging breaches of the Company’s contractual obligations.

13. STOCKHOLDERS' EQUITY

Stock Repurchase Programs

On January 27, 2010, the Company's Board of Directors authorized a stock repurchase program to acquire up to $275.1 million of the Company's outstanding common stock, from February 5, 2010 through December 31, 2010. On September 13, 2010, the Company's Board of Directors authorized a stock repurchase program, replacing the repurchase program authorized in January 2010, to acquire up to $400.0 million of the Company's outstanding common stock from September 13, 2010 through December 31, 2011. On December 13, 2011, the Company's Board of Directors authorized a stock repurchase program to acquire up to $400.0 million of the Company's outstanding common stock from January 1, 2012 through December 31, 2012.

During 2012, 2011 and 2010, the Company repurchased approximately 1.0 million, 2.9 million and 2.5 million shares of its common stock for an aggregate amount of $137.4 million, $240.9 million and $148.7 million, respectively.

As of December 31, 2012, $262.6 million remained unused under the stock repurchase program that was authorized in December 2011 and expired on December 31, 2012.

On January 2, 2013, the Company's Board of Directors authorized a stock repurchase program to acquire up to $400.0 million of our outstanding common stock from January 2, 2013 through December 31, 2013, subject to any restrictions pursuant to the terms of the Company's credit agreements, indentures, applicable securities laws or otherwise.

Stock Compensation Plans

The Company has adopted equity compensation plans to advance the interests of the Company by rewarding certain employees for their contributions to the financial success of the Company and thereby motivating them to continue to make such contributions in the future.

On March 31, 2005, the Company's Board of Directors adopted the 2005 Long Term Incentive Plan, which was subsequently approved by the Company's stockholders on June 7, 2005 and became effective July 1, 2005. This plan reserved 4,750,000 shares of common stock for grants of incentive stock options, nonqualified stock options, stock appreciation rights, restricted stock, restricted stock units and other performance-based awards to selected officers, employees, non-employee directors and consultants performing services for the Company or its affiliates. On September 24, 2009, the Company's Board of Directors amended the 2005 long term incentive plan to provide that, in addition to settlement in shares of the Company's common stock or other securities, equity awards may be settled in cash. No more grants may be made from the 2005 long-term incentive plan, which expired on June 30, 2010.

On March 25, 2010, the Company's Board of Directors adopted the 2010 Omnibus Incentive Plan, which was subsequently approved by the Company's stockholders on June 8, 2010. The 2010 Omnibus Incentive Plan became effective July 1, 2010 and expires on June 30, 2015. This plan reserves 3,000,000 shares of common stock for grants of nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, restricted stock units, performance share awards, cash incentive awards, deferred stock units, and other stock-based and cash-based awards to selected officers, employees, non-employee directors and consultants performing services for the Company or its affiliates, with only employees being eligible to receive incentive stock options.

Terms of all awards under the 2010 Omnibus Incentive Plan are determined by the Board of Directors or the compensation committee of the Board of Directors or its designee at the time of award.

Under the fair value recognition provisions, stock-based compensation expense is measured at the grant date based on the fair value of the award and is recognized ratably over the requisite service period.

Stock Compensation Expense

Total stock-based compensation expense recognized in the Company's consolidated statements of income for the years ended December 31, 2012, 2011 and 2010, is as follows:

	Years Ended December 31,		
	2012	2011	2010
		(In thousands)	
Cost of operations	$ 32,654	$ 25,766	$ 27,608
General and administrative	17,843	17,720	22,486
Total	$ 50,497	$ 43,486	$ 50,094

As the amount of stock-based compensation expense recognized is based on awards ultimately expected to vest, the amount recognized in the Company's results of operations has been reduced for estimated forfeitures. ASC 718 requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on the Company's historical experience. The Company revised its annual forfeiture rate from 8% to 5% in 2010 as actual forfeitures were less than anticipated. Accordingly, in December 2010, the Company recognized an additional $5.9 million of stock compensation expense related to the revision of its annual forfeiture rate. As of December 31, 2012, there was approximately $67.3 million of unrecognized expense, adjusted for estimated forfeitures, related to non-vested, stock-based equity awards granted to employees, which is expected to be recognized over a weighted average period of approximately 1.4 years.

Restricted Stock Awards

During 2012, the Company awarded both service-based and performance-based restricted stock units. Fair value of the restricted stock units is estimated using the Company's closing share price on the date of grant. In accordance with ASC 718, the Company recognizes the estimated stock-based compensation expense, net of estimated forfeitures, over the applicable service period.

Service-based restricted stock unit awards typically vest ratably over a three year period. Performance-based restricted stock unit awards typically vest ratably over a three year period if specified performance measures tied to the Company's financial performance are met.

	Performance-Based	Service-Based	Total
Balance at January 1, 2010	1,726,757	1,139,011	2,865,768
Shares granted	393,900	210,026	603,926
Shares vested	(240,941)	(544,093)	(785,034)
Shares cancelled	(92,243)	(31,219)	(123,462)
Balance at December 31, 2010	1,787,473	773,725	2,561,198
Shares granted	457,180	158,539	615,719
Shares vested	(373,099)	(543,643)	(916,742)
Shares cancelled [1]	(1,014,982)	(43,432)	(1,058,414)
Balance at December 31, 2011	856,572	345,189	1,201,761
Shares granted	527,080	127,646	654,726
Shares vested	(505,335)	(130,066)	(635,401)
Shares cancelled	(104,476)	(27,618)	(132,094)
Balance at December 31, 2012	773,841	315,151	1,088,992
Outstanding and Expected to Vest			926,499

(1) In March 2009, the Company determined that it was no longer probable that the specified performance measures associated with certain performance-based restricted stock units that were granted during 2008 and January 2009 would be achieved. The Company did not recognize stock-based compensation expense related to those awards no longer probable to vest. A total of 939,190 shares related to these certain performance-based restricted stock units did not meet the specified performance criteria and thus did not vest, resulting in their cancellation during the year ended December 31, 2011.

The weighted average grant-date fair value per share was $110.18 for restricted stock unit awards granted for the year ended December 31, 2012. The weighted-average remaining contractual life for unvested restricted stock units was 1.4 years at December 31, 2012.

Stock Options

Stock option awards are granted with an exercise price equal to the market price of the Company's stock on the date of grant. Options typically vest ratably over three years and expire ten years after the date of grant. No stock option awards were granted during the years ended December 31, 2012, 2011 and 2010. The Company had granted stock option awards in 2007 and prior where the fair value of each option award was estimated on the date of grant using a binomial lattice model.

The following table summarizes stock option activity under the Company's equity compensation plans:

	Outstanding		Exercisable	
	Options	Weighted Average Exercise Price	Options	Weighted Average Exercise Price
Balance at January 1, 2010	2,480,690	$ 36.05	2,380,410	$ 34.90
Granted	—	—		
Exercised	(1,039,349)	30.00		
Forfeited	(19,077)	62.81		
Balance at December 31, 2010	1,422,264	$ 40.12	1,422,264	$ 40.12
Granted	—	—		
Exercised	(669,712)	37.24		
Forfeited	(12,535)	31.46		
Balance at December 31, 2011	740,017	$ 42.87	740,017	$ 42.87
Granted	—	—		
Exercised	(355,764)	42.95		
Forfeited	—	—		
Balance at December 31, 2012	384,253	$ 42.80	384,253	$ 42.80
Vested and Expected to Vest (1)	384,253	$ 42.80		

(1) All options outstanding at December 31, 2012 are vested and there were no remaining options expected to vest.

Based on the market value on their respective exercise dates, the total intrinsic value of stock options exercised was approximately $31.0 million, $33.9 million and $42.3 million for the years ended December 31, 2012, 2011 and 2010, respectively. The Company received cash proceeds of approximately $15.3 million from stock options exercised during the year ended December 31, 2012.

All options outstanding as of December 31, 2012 are vested and exercisable. The aggregate intrinsic value of these stock options as of December 31, 2012 was approximately $39.2 million. The weighted average remaining contractual life of stock options vested and exercisable as of December 31, 2012 was approximately 2.4 years.

14. EMPLOYEE BENEFIT PLANS

Employee Stock Purchase Plan

On June 7, 2005, at the annual meeting of stockholders, the stockholders approved and adopted the Amended and Restated Employee Stock Purchase Plan (the "ESPP"), effective on July 1, 2005. No employee may purchase more than $25,000 in stock under the ESPP in any calendar year, and no employee may purchase stock under the ESPP if such purchase would cause the employee to own more than 5% of the voting power or value of the Company's common stock. The ESPP provides for three month offering periods, commencing on the first trading day of each calendar quarter and ending on the last trading day of each calendar quarter. The purchase price of the common stock upon exercise shall be 85% of the fair market value of shares on the applicable purchase date as determined by averaging the high and low trading prices of the last trading day of each quarter. An employee may elect to pay the purchase price of such common stock through payroll deductions. The maximum number of shares reserved for issuance under the ESPP is 1,500,000 shares, subject to adjustment as provided in the ESPP. Employees are required to hold any stock purchased through the ESPP for 180 days prior to any sale or withdrawal of shares.

During the year ended December 31, 2012, the Company issued 50,380 shares of common stock under the ESPP at a weighted-average issue price of $116.15. Since its adoption, 959,182 shares of common stock have been issued under the ESPP.

2010 Omnibus Incentive Plan

At the June 8, 2010 annual meeting of stockholders, the Company's stockholders approved the 2010 Omnibus Incentive Plan. The 2010 plan authorizes the compensation committee to grant cash-based and other equity-based or equity-related awards, including deferred stock units and fully-vested shares. The maximum cash amount that may be awarded to any single participant in any one calendar year may not exceed $7.5 million.

401(k) Retirement Savings Plan

The Alliance Data Systems 401(k) and Retirement Savings Plan is a defined contribution plan that is qualified under Section 401(k) of the Internal Revenue Code of 1986. The Company amended its 401(k) and Retirement Savings Plan effective January 1, 2013. The 401(k) and Retirement Savings Plan is an IRS-approved safe harbor plan design that eliminates the need for most discrimination testing. Eligible employees can participate in the 401(k) and Retirement Savings Plan immediately upon joining the Company and after six months of employment begin receiving company matching contributions. In addition, seasonal or "on-call" employees must complete a year of eligibility service before they may participate in the 401(k) and Retirement Savings Plan. The 401(k) and Retirement Savings Plan permits eligible employees to make Roth elective deferrals, effective November 1, 2012, which are included in the employee's taxable income at the time of contribution, but not when distributed. Regular, or Non-Roth, elective deferrals made by employees, together with contributions by the Company to the 401(k) and Retirement Savings Plan, and income earned on these contributions, are not taxable to employees until withdrawn from the 401(k) and Retirement Savings Plan. The 401(k) and Retirement Savings Plan covers U.S. employees, who are at least 18 years old, of ADS Alliance Data Systems, Inc., one of the Company's wholly-owned subsidiaries, and any other subsidiary or affiliated organization that adopts this 401(k) and Retirement Savings Plan. The Company, and all of its U.S. subsidiaries, are currently covered under the 401(k) and Retirement Savings Plan.

On the first three percent of savings, the Company matches dollar-for-dollar. An additional fifty cents for each dollar an employee contributes is matched for savings of more than three percent and up to five percent of pay. All company matching contributions are immediately vested. In addition to the company match, the Company may make an additional annual discretionary contribution based on the Company's profitability. This contribution, subject to Board of Director approval, is based on a percentage of pay and is subject to a separate three-year vesting schedule. The discretionary contribution vests in full upon achieving three years of service for participants with less than three years of service. All of these contributions vest immediately if the participating employee has more than three years of service, attains age 65, becomes disabled, dies or if the 401(k) and Retirement Savings Plan terminates. Company matching and discretionary contributions for the years ended December 31, 2012, 2011 and 2010 were $22.0 million, $14.0 million, and $8.8 million, respectively.

The participants in the plan can direct their contributions and the Company's matching contribution to numerous investment options, including the Company's common stock. On July 20, 2001, the Company registered 1,500,000 shares of its common stock for issuance in accordance with its 401(k) and Retirement Savings Plan pursuant to a Registration Statement on Form S-8, File No. 333-65556. As of December 31, 2012, 810,603 of such shares remain available for issuance.

Group Retirement Savings Plan and Deferred Profit Sharing Plan (LoyaltyOne)

The Company provides for its Canadian employees the Group Retirement Savings Plan of the Loyalty Group ("GRSP"), which is a group retirement savings plan registered with the Canada Revenue Agency. Contributions made by Canadian employees on their behalf or on behalf of their spouse to the GRSP, and income earned on these contributions, are not taxable to employees until withdrawn from the GRSP. Employee contributions eligible for company match may not exceed the overall maximum allowed by the Income Tax Act (Canada); the maximum tax-deductible GRSP contribution is set by the Canada Revenue Agency each year. The Deferred Profit Sharing Plan ("DPSP") is a legal trust registered with the Canada Revenue Agency. Eligible full-time employees can participate in the GRSP after three months of employment and eligible part-time employees after six months of employment. Employees become eligible to receive company matching contributions into the DPSP on the first day of the calendar quarter following twelve months of employment. Based on the eligibility guidelines, the Company matches up to 5% of contributions dollar-for-dollar. Contributions made to the DPSP reduce an employee's maximum contribution amounts to the GRSP under the Income Tax Act (Canada) for the following year. All company matching contributions into the DPSP vest after receipt of one continuous year of DPSP contributions. LoyaltyOne matching and discretionary contributions for the years ended December 31, 2012, 2011 and 2010 were $2.0 million, $2.0 million, and $1.8 million, respectively.

Executive Deferred Compensation Plan and the Canadian Supplemental Executive Retirement Plan

The Company also maintains an Executive Deferred Compensation Plan ("EDCP"). The EDCP provides an opportunity for a defined group of management and highly compensated employees to defer on a pre-tax basis a portion of their regular compensation and bonuses payable for services rendered and to receive certain employer contributions.

The Company provides a Canadian Supplemental Executive Retirement Plan ("SERP") for a defined group of management and highly compensated employees of Loyalty One, Inc., one of the Company's wholly-owned subsidiaries. Similar to the EDCP, participants may defer on a pre-tax basis a portion of their compensation and bonuses payable for services rendered and to receive certain employer contributions.

15. ACCUMULATED OTHER COMPREHENSIVE INCOME

The changes in each component of accumulated comprehensive income (loss), net of tax effects, are as follows:

	Net Unrealized Gains (Losses) on Securities	Foreign Currency Translation Adjustments [1]	Accumulated Other Comprehensive Income (Loss)
		(In thousands)	
Balance as of January 1, 2010	$ (63,024)	$ (2,717)	$ (65,741)
Adoption of ASC 860 and ASC 810	55,881	—	55,881
Changes in other comprehensive income (loss)	(12,939)	(11,701)	(24,640)
Balance as of December 31, 2010	(20,082)	(14,418)	(34,500)
Changes in other comprehensive income (loss)	27,035	(15,591)	11,444
Balance as of December 31, 2011	6,953	(30,009)	(23,056)
Changes in other comprehensive income (loss)	3,368	(2,173)	1,195
Balance as of December 31, 2012	$ 10,321	$ (32,182)	$ (21,861)

(1) Primarily related to the impact of changes in the Canadian currency exchange rate.

16. INCOME TAXES

The Company files a consolidated federal income tax return.

	Years Ended December 31,		
	2012	2011	2010
	(In thousands)		
Components of income from continuing operations before income taxes:			
Domestic	$ 481,243	$ 332,010	$ 159,227
Foreign	201,661	182,085	151,663
Total	$ 682,904	$ 514,095	$ 310,890
Components of income tax expense are as follows:			
Current			
Federal	$ 143,695	$ 71,843	$ 17,940
State	13,991	9,415	9,341
Foreign	696	70,514	68,910
Total current	158,382	151,772	96,191
Deferred			
Federal	28,267	46,459	20,354
State	6,176	3,482	937
Foreign	67,823	(2,904)	(2,230)
Total deferred	102,266	47,037	19,061
Total provision for income taxes	$ 260,648	$ 198,809	$ 115,252

A reconciliation of recorded federal provision for income taxes to the expected amount computed by applying the federal statutory rate of 35% for all periods to income from continuing operations before income taxes is as follows:

	Years Ended December 31,		
	2012	2011	2010
	(In thousands)		
Expected expense at statutory rate	$ 239,016	$ 179,933	$ 108,812
Increase (decrease) in income taxes resulting from:			
State income taxes, net of federal benefit	13,109	8,383	6,680
Foreign earnings at other than U.S. rates	(4,328)	(7,131)	(6,320)
Canadian tax rate reductions	(7,128)	7,188	11,209
U.S. tax on foreign dividends, net of credits	15,617	5,228	(3,156)
Reduction of prior year tax positions	—	—	(7,326)
Other	4,362	5,208	5,353
Total	$ 260,648	$ 198,809	$ 115,252

Deferred tax assets and liabilities consist of the following:

	December 31,	
	2012	2011
	(In thousands)	
Deferred tax assets		
Deferred revenue	$ 90,675	$ 155,386
Allowance for doubtful accounts	186,503	179,860
Net operating loss carryforwards and other carryforwards	51,603	129,449
Derivatives	4,456	15,230
Stock-based compensation and other employee benefits	27,205	20,196
Accrued expenses and other	44,267	40,506
Total deferred tax assets	404,709	540,627
Valuation allowance	(22,542)	(82,517)
Deferred tax assets, net of valuation allowance	382,167	458,110
Deferred tax liabilities		
Deferred income	$ 203,658	$ 168,769
Convertible note hedges	7,553	14,317
Depreciation	8,950	7,724
Intangible assets	172,065	123,335
Total deferred tax liabilities	392,226	314,145
Net deferred tax asset (liability)	$ (10,059)	$ 143,965
Amounts recognized in the consolidated balance sheets:		
Current assets	$ 237,268	$ 252,303
Non-current assets	30,027	43,408
Non-current liabilities	(277,354)	(151,746)
Total – Net deferred tax asset (liability)	$ (10,059)	$ 143,965

At December 31, 2012, the Company has approximately $22.3 million of U.S. federal net operating loss carryovers (“NOLs”) and approximately $24.7 million of foreign tax credits (“credits”), which expire at various times through the year 2022. Pursuant to Section 382 of the Internal Revenue Code, the Company’s utilization of such NOLs is subject to an annual limitation. In addition, at December 31, 2012, the Company has state income tax NOLs of approximately $420.5 million and state credits of approximately $6.2 million available to offset future state taxable income. The state NOLs and credits will expire at various times through the year 2032. The Company believes it is more likely than not that a portion of the credits and state NOLs will expire before being utilized. Therefore, in accordance with ASC 740-10, “Income Taxes—Overall—Initial Measurement,” the Company has established a valuation allowance on the portion of credits and state NOLs that the Company expects to expire prior to utilization.

Should certain substantial changes in the Company’s ownership occur, there would be an annual limitation on the amount of carryovers and credits that can be utilized. The impact of such a limitation would likely not be significant.

The Company’s valuation allowance decreased $60.0 million primarily due to changes in the expected realizability of foreign tax credits. This decrease is largely offset by a reduction to the foreign tax credit carryforward.

The income tax expense does not reflect the tax effect of certain items recorded directly to additional paid-in capital. The net tax impact resulting from the exercise of employee stock options and other employee stock programs that was recorded in additional paid-in capital was approximately $21.4 million, $17.3 million and $12.5 million for the years ended December 31, 2012, 2011 and 2010, respectively.

In December 2009, the Ontario government enacted a law to reduce the corporate income tax rates for years beginning in 2010. As a result of these rate reductions, the Company was required to book additional expense to reduce the net deferred tax asset in Canada related to the future lower income tax rates. The Company recorded $7.2 million and $11.2 million of income tax expense for the years ended December 31, 2011 and 2010, respectively, related to these rate reductions. In June 2012, the Ontario government enacted a law that froze the corporate income tax rate at the current rate, essentially repealing the rate reductions scheduled for future years. As a result of the rate freeze, the Company was required to record a $7.1 million tax benefit to increase its deferred tax asset in Canada related to future years.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows (in thousands):

Balance at December 31, 2009	$	51,147
Increases related to prior years' tax positions		2,391
Decreases related to prior years' tax positions		(2,337)
Increases related to current year tax positions		5,957
Settlements during the period		(2,026)
Lapses of applicable statutes of limitation		(932)
Balance at December 31, 2010	$	54,200
Increases related to prior years' tax positions		14,509
Decreases related to prior years' tax positions		(5,497)
Increases related to current year tax positions		9,581
Settlements during the period		(2,569)
Lapses of applicable statutes of limitation		(680)
Balance at December 31, 2011	$	69,544
Increases related to prior years' tax positions		4,188
Decreases related to prior years' tax positions		(7,424)
Increases related to current year tax positions		11,703
Settlements during the period		(1,253)
Lapses of applicable statutes of limitation		(604)
Balance at December 31, 2012	$	76,154

Included in the balance at December 31, 2012 are tax positions reclassified from deferred tax liabilities. Deductibility or taxability is highly certain for these tax positions but there is uncertainty about the timing of such deductibility or taxability. Because of the impact of deferred tax accounting, other than interest and penalties, this timing uncertainty would not affect the annual effective tax rate but would accelerate the payment of cash to the taxing authority to an earlier period.

The Company recognizes potential accrued interest and penalties related to unrecognized tax benefits in income tax expense. The Company has potential cumulative interest and penalties with respect to unrecognized tax benefits of approximately $15.5 million, $15.1 million and $15.8 million at December 31, 2012, 2011 and 2010, respectively. For the year ended December 31, 2012, the Company recorded approximately $0.3 million in potential interest and penalties with respect to unrecognized tax benefits. For the years ended December 31, 2011 and 2010, the Company released approximately $0.3 million and $1.0 million, respectively, in potential interest and penalties with respect to unrecognized tax benefits.

At December 31, 2012, 2011 and 2010, the Company had unrecognized tax benefits of approximately $37.5 million, $37.1 million and $35.5 million, respectively, that, if recognized, would impact the effective tax rate. The Company does not anticipate a significant change to the total amount of unrecognized tax benefits over the next twelve months.

The Company files income tax returns in the U.S. federal jurisdiction and in many state and foreign jurisdictions. With some exceptions, the tax returns filed by the Company are no longer subject to U.S. federal or state and local income tax examinations for years before 2009 and are no longer subject to foreign income tax examinations by tax authorities for years before 2007.

17. FINANCIAL INSTRUMENTS

In accordance with ASC 825, "Financial Instruments," the Company is required to disclose the fair value of financial instruments for which it is practical to estimate fair value. To obtain fair values, observable market prices are used if available. In some instances, observable market prices are not readily available and fair value is determined using present value or other techniques appropriate for a particular financial instrument. These techniques involve judgment and as a result are not necessarily indicative of the amounts the Company would realize in a current market exchange. The use of different assumptions or estimation techniques may have a material effect on the estimated fair value amounts.

Fair Value of Financial Instruments—The estimated fair values of the Company's financial instruments are as follows:

	December 31,			
	2012		2011	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(In thousands)			
Financial assets				
Cash and cash equivalents	$ 893,352	$ 893,352	$ 216,213	$ 216,213
Trade receivables, net	370,110	370,110	300,895	300,895
Credit card receivables, net	6,967,674	6,967,674	5,197,690	5,197,690
Redemption settlement assets, restricted	492,690	492,690	515,838	515,838
Cash collateral, restricted	65,160	65,160	158,727	158,727
Other investment securities	91,972	91,972	26,772	26,772
Derivative instruments	4	4	—	—
Financial liabilities				
Accounts payable	215,470	215,470	149,812	149,812
Deposits	2,228,411	2,255,089	1,353,775	1,372,670
Asset-backed securities debt – owed to securitization investors	4,130,970	4,225,745	3,260,287	3,302,687
Long-term and other debt	2,854,839	4,358,379	2,183,474	3,071,661
Derivative instruments	8,515	8,515	38,103	38,103

Fair Value of Assets and Liabilities Held at December 31, 2012 and 2011

The following techniques and assumptions were used by the Company in estimating fair values of financial instruments as disclosed herein:

Cash and cash equivalents, trade receivables, net and accounts payable — The carrying amount approximates fair value due to the short maturity and the relatively liquid nature of these assets and liabilities.

Credit card receivables, net — The carrying amount of credit card receivables, net approximates fair value due to the short maturity, and the average interest rates approximate current market origination rates.

Redemption settlement assets, restricted — Redemption settlement assets, restricted consists of cash and cash equivalents and marketable securities. The fair value for securities is based on quoted market prices for the same or similar securities.

Cash collateral, restricted — The spread deposits are recorded at their fair value based on discounted cash flow models. The Company uses a valuation model that calculates the present value of estimated cash flows for each asset. The fair value is based on the term of the underlying securities and a discount rate. The carrying amount of excess funding deposits approximates its fair value due to the relatively short maturity period and average interest rates, which approximate current market rates.

Other investment securities — Other investment securities consist primarily of restricted cash and marketable securities. The fair value is based on quoted market prices for the same or similar securities.

Market values were determined for each individual security in the investment portfolio. When evaluating the investments for other-than-temporary impairment, the Company reviews factors such as the length of time and extent to which fair value has been below cost basis, the financial condition of the security's issuer, and the Company's intent to sell the security and whether it is more likely than not that the Company will be required to sell the security before recovery of its amortized cost basis. The Company typically invests in highly-rated securities with low probabilities of default and has the ability to hold the investments until maturity. As of December 31, 2012, the Company does not consider the investments to be other-than-temporarily impaired.

Deposits — The fair value is estimated based on the current observable market rates available to the Company for similar deposits with similar remaining maturities.

Asset-backed securities debt – owed to securitization investors — The fair value is estimated based on the current observable market rates available to the Company for similar debt instruments with similar remaining maturities or quoted market prices for the same transaction.

Long-term and other debt — The fair value is estimated based on the current observable market rates available to the Company for similar debt instruments with similar remaining maturities or quoted market prices for the same transaction.

Derivative instruments —The valuation of these instruments is determined using a discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflects the contractual terms of the derivatives, including the period to maturity, and uses observable market-based inputs, including interest rate curves and option volatility.

Financial Assets and Financial Liabilities Fair Value Hierarchy

ASC 825 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1, defined as observable inputs such as quoted prices in active markets;
- Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and
- Level 3, defined as unobservable inputs where little or no market data exists, therefore requiring an entity to develop its own assumptions.

Financial instruments are considered Level 3 when their values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation. The use of different techniques to determine fair value of these financial instruments could result in different estimates of fair value at the reporting date.

The following table provides information for the assets and liabilities carried at fair value measured on a recurring basis as of December 31, 2012 and 2011:

		Fair Value Measurements at December 31, 2012 Using		
	Balance at December 31, 2012	Level 1	Level 2	Level 3
		(In thousands)		
Government bonds [1]	$ 5,117	$ —	$ 5,117	$ —
Corporate bonds [1]	447,307	6,165	441,142	—
Cash collateral, restricted	65,160	2,500	—	62,660
Other investment securities [2]	91,972	51,951	40,021	—
Derivative instruments [3]	4	—	4	—
Total assets measured at fair value	$ 609,560	$ 60,616	$ 486,284	$ 62,660
Derivative instruments [4]	$ 8,515	$ —	$ 8,515	$ —
Total liabilities measured at fair value	$ 8,515	$ —	$ 8,515	$ —

		Fair Value Measurements at December 31, 2011 Using		
	Balance at December 31, 2011	Level 1	Level 2	Level 3
		(In thousands)		
Government bonds [1]	$ 5,100	$ —	$ 5,100	$ —
Corporate bonds [1]	475,273	21,346	453,927	—
Cash collateral, restricted	158,727	—	—	158,727
Other investment securities [2]	26,772	3,043	23,729	—
Total assets measured at fair value	$ 665,872	$ 24,389	$ 482,756	$ 158,727
Derivative instruments [4]	$ 38,103	$ —	$ 38,103	$ —
Total liabilities measured at fair value	$ 38,103	$ —	$ 38,103	$ —

(1) Amounts are included in redemption settlement assets in the consolidated balance sheets.

(2) Amounts are included in other current assets and other assets in the consolidated balance sheets.

(3) Amount is included in other assets in the consolidated balance sheets.

(4) Amounts are included in other current liabilities and other liabilities in the consolidated balance sheets.

The following tables summarize the changes in fair value of the Company's assets measured at fair value on a recurring basis using significant unobservable inputs (Level 3) as defined in ASC 825 as of December 31, 2012 and 2011:

	Cash Collateral, Restricted
	(In thousands)
December 31, 2011	$ 158,727
Total gains (realized or unrealized):	
Included in earnings	5,469
Purchases	1,287
Issuances	—
Settlements	(102,823)
Transfers in or out of Level 3	—
December 31, 2012	$ 62,660
Gains for the period included in earnings related to assets still held at December 31, 2012	$ 5,469

	Cash Collateral, Restricted
	(In thousands)
December 31, 2010	$ 185,754
Total losses (realized or unrealized):	
Included in earnings	(5,227)
Purchases	55,148
Issuances	17,722
Settlements	(94,670)
Transfers in or out of Level 3	—
December 31, 2011	$ 158,727
Losses for the period included in earnings related to assets still held at December 31, 2011	$ (5,227)

There were no transfers between Levels 1 and 2 within the fair value hierarchy for the years ended December 31, 2012 and 2011.

The spread deposits included in cash collateral, restricted are recorded at their fair value based on discounted cash flow models, utilizing the respective term of each instrument which ranged from four to 46 months, with a weighted average term of 18 months. The unobservable input used to calculate the fair value was the discount rate of 3.2%, which was based on an interest rate curve that is observable in the market as adjusted for a credit spread. Significant increases (decreases) in the term or the discount rate would result in a lower (higher) fair value.

For the years ended December 31, 2012 and 2011, gains and losses included in earnings attributable to cash collateral, restricted are included in interest in the consolidated statements of income.

Financial Instruments Disclosed but Not Carried at Fair Value

The following table provides assets and liabilities disclosed but not carried at fair value as of December 31, 2012:

	Fair Value Measurements at December 31, 2012			
	Total	Level 1	Level 2	Level 3
	(In thousands)			
Cash and cash equivalents	$ 893,352	$ 893,352	$ —	$ —
Credit card receivables, net	6,967,674	—	—	6,967,674
Total assets	$ 7,861,026	$ 893,352	$ —	$ 6,967,674
Deposits	$ 2,255,089	$ —	$ 2,255,089	$ —
Asset-backed securities debt - owed to securitization investors	4,225,745	—	4,225,745	—
Long-term and other debt	4,358,379	—	4,358,379	—
Total liabilities	$ 10,839,213	$ —	$ 10,839,213	$ —

18. PARENT-ONLY FINANCIAL STATEMENTS

The following ADSC financial statements are provided in accordance with the rules of the Securities and Exchange Commission, which require such disclosure when the restricted net assets of consolidated subsidiaries exceed 25 percent of consolidated net assets. Certain of the Company's subsidiaries may be restricted in distributing cash or other assets to ADSC, which could be utilized to service its indebtedness. The stand alone parent-only financial statements are presented below.

Balance Sheets

	December 31,	
	2012	2011
	(In thousands)	
Assets:		
Cash and cash equivalents	$ 247,478	$ 25
Investment in subsidiaries	2,813,219	1,938,769
Intercompany receivables	887,518	1,011,347
Other assets	61,222	56,496
Total assets	$ 4,009,437	$ 3,006,637
Liabilities:		
Current debt	$ 803,256	$ 19,813
Long-term debt	2,051,570	2,163,627
Intercompany payables	8,519	84,147
Other liabilities	617,605	563,084
Total liabilities	3,480,950	2,830,671
Stockholders' equity	528,487	175,966
Total liabilities and stockholders' equity	$ 4,009,437	$ 3,006,637

Statements of Income

	Years Ended December 31,		
	2012	2011	2010
		(In thousands)	
Interest from loans to subsidiaries	$ 10,248	$ 10,197	$ 11,058
Dividends from subsidiaries	464,971	343,676	215,125
Total revenue	475,219	353,873	226,183
Interest expense, net	179,527	159,088	168,913
Other expenses, net	533	646	281
Total expenses	180,060	159,734	169,194
Income before income taxes and equity in undistributed net income of subsidiaries	295,159	194,139	56,989
Benefit for income taxes	73,106	34,127	37,811
Income before equity in undistributed net income of subsidiaries	368,265	228,266	94,800
Equity in undistributed net income of subsidiaries	53,991	87,020	98,937
Net income	$ 422,256	$ 315,286	$ 193,737

Statements of Cash Flows

	Years Ended December 31,		
	2012	2011	2010
		(In thousands)	
Net cash used in operating activities	$ (224,835)	$ (10,011)	$ (43,096)
Investing activities:			
Payments for acquired businesses, net of cash acquired	—	(359,076)	(117,000)
Investment in subsidiaries	(475,000)	—	—
Dividends received	464,971	343,676	215,125
Net cash (used in) provided by investing activities	(10,029)	(15,400)	98,125
Financing activities:			
Borrowings under debt agreements	1,095,148	3,256,500	1,507,000
Repayment of borrowings	(506,214)	(3,010,906)	(1,458,000)
Excess tax benefits from stock-based compensation	20,199	15,028	12,959
Payment of deferred financing costs	(21,672)	(23,861)	(2,360)
Purchase of treasury shares	(125,840)	(240,877)	(148,717)
Proceeds from issuance of common stock	20,696	29,412	33,854
Net cash provided by (used in) financing activities	482,317	25,296	(55,264)
Increase (decrease) in cash and cash equivalents	247,453	(115)	(235)
Cash and cash equivalents at beginning of year	25	140	375
Cash and cash equivalents at end of year	$ 247,478	$ 25	$ 140

19. SEGMENT INFORMATION

Operating segments are defined by ASC 280, “Segment Reporting,” as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The Company’s chief operating decision maker is the President and Chief Executive Officer. The operating segments are reviewed separately because each operating segment represents a strategic business unit that generally offers different products and serves different markets.

The Company operates in the following reportable segments: LoyaltyOne, Epsilon, and Private Label Services and Credit. Segment operations consist of the following:

- LoyaltyOne includes the Company’s Canadian AIR MILES Reward Program;
- Epsilon provides end-to-end, integrated direct marketing solutions that combine database marketing technology and analytics with a broad range of direct marketing services; and
- Private Label Services and Credit provides risk management solutions, account origination, funding, transaction processing, customer care and collections services for the Company’s private label retail credit card programs.

Corporate and all other immaterial businesses are reported collectively as an “all other” category labeled “Corporate/Other.” Income taxes are not allocated to the segments in the computation of segment operating profit for internal evaluation purposes and have also been included in “Corporate/Other.” Total assets are not allocated to the segments. The Company’s program for web and catalog retailer VENUE has been classified as discontinued operations. See Note 4, “Discontinued Operations,” for additional information.

ALLIANCE DATA SYSTEMS CORPORATION
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (CONTINUED)

The accounting policies of the operating segments are generally the same as those described in the summary of significant accounting policies.

Year Ended December 31, 2012	LoyaltyOne	Epsilon	Private Label Services and Credit	Corporate/ Other	Eliminations	Total
			(In thousands)			
Revenues	$ 919,041	$ 996,210	$ 1,732,160	$ 372	$ (6,393)	$ 3,641,390
Adjusted EBITDA [1]	236,094	222,253	823,241	(89,851)	—	1,191,737
Stock compensation expense	9,311	14,414	8,930	17,842	—	50,497
Depreciation and amortization	19,614	101,684	42,464	3,114	—	166,876
Operating income (loss)	207,169	106,155	771,847	(110,807)	—	974,364
Interest expense, net	(1,560)	(67)	114,193	178,894	—	291,460
Income (loss) from continuing operations before income taxes	208,729	106,222	657,654	(289,701)	—	682,904
Capital expenditures	$ 19,424	$ 60,065	$ 28,295	$ 8,671	$ —	$ 116,455

Year Ended December 31, 2011	LoyaltyOne	Epsilon	Private Label Services and Credit	Corporate/ Other	Eliminations	Total
			(In thousands)			
Revenues	$ 844,774	$ 847,136	$ 1,488,998	$ 1,136	$ (8,757)	$ 3,173,287
Adjusted EBITDA [1]	217,083	195,397	678,334	(76,407)	(5,088)	1,009,319
Stock compensation expense	7,202	11,816	6,748	17,720	—	43,486
Depreciation and amortization	20,253	90,111	35,480	7,309	—	153,153
Operating income (loss)	189,628	93,470	636,106	(101,436)	(5,088)	812,680
Interest expense, net	(383)	(68)	145,580	158,544	(5,088)	298,585
Income (loss) from continuing operations before income taxes	190,011	93,538	490,526	(259,980)	—	514,095
Capital expenditures	$ 18,331	$ 35,600	$ 13,485	$ 6,086	$ —	$ 73,502

Year Ended December 31, 2010	LoyaltyOne	Epsilon	Private Label Services and Credit	Corporate/ Other	Eliminations	Total
			(In thousands)			
Revenues	$ 799,534	$ 613,374	$ 1,386,274	$ 1,866	$ (9,627)	$ 2,791,421
Adjusted EBITDA [1]	204,554	152,304	530,021	(57,875)	(6,464)	822,540
Stock compensation expense	10,266	9,481	7,861	22,486	—	50,094
Depreciation and amortization	23,823	77,743	35,164	6,496	—	143,226
Operating income (loss)	170,465	65,080	486,996	(86,857)	(6,464)	629,220
Interest expense, net	226	(33)	155,323	169,278	(6,464)	318,330
Income (loss) from continuing operations before income taxes	170,239	65,113	331,673	(256,135)	—	310,890
Capital expenditures	$ 16,049	$ 27,405	$ 19,681	$ 5,620	$ —	$ 68,755

(1) Adjusted EBITDA is a non-GAAP financial measure equal to income (loss) from continuing operations, the most directly comparable GAAP financial measure, plus stock compensation expense, provision for income taxes, interest expense, net, depreciation and other amortization and amortization of purchased intangibles. Adjusted EBITDA is presented in accordance with ASC 280 as it is the primary performance metric utilized to assess performance of the segment.

With respect to information concerning principal geographic areas, revenues are attributed to respective countries based on the location of the subsidiary, which generally correlates with the location of the customer. Information concerning principal geographic areas is as follows:

	United States	Canada	Other	Total
	(In thousands)			
Revenues				
Year Ended December 31, 2012	$ 2,655,506	$ 913,188	$ 72,696	$ 3,641,390
Year Ended December 31, 2011	$ 2,264,336	$ 833,427	$ 75,524	$ 3,173,287
Year Ended December 31, 2010	$ 1,931,660	$ 785,549	$ 74,212	$ 2,791,421
Long-lived assets				
December 31, 2012	$ 2,379,536	$ 350,122	$ 138,338	$ 2,867,996
December 31, 2011	$ 1,957,094	$ 367,324	$ 48,864	$ 2,373,282

As of December 31, 2012, revenues from Bank of Montreal represented approximately 10.5% of consolidated revenue and are included in the LoyaltyOne segment.

20. NON-CASH FINANCING AND INVESTING ACTIVITIES

On January 1, 2010, the Company adopted ASC 860 and ASC 810 resulting in the consolidation of the WFN Trusts and the WFC Trust. However, based on the carrying amounts of the WFN Trusts' and the WFC Trust's assets and liabilities as prescribed by ASC 810, the consolidation of the trusts had the following non-cash impact to the financing and investing activities of the consolidated statements of cash flows for the year ended December 31, 2010 as follows:

- elimination of $74 million in redemption settlement assets for those interests retained in the WFN Trusts,
- elimination of $775 million in retained interests classified in due from securitizations,
- consolidation of $4.1 billion in credit card receivables, and
- consolidation of $3.7 billion in asset-backed securities.

In December 2012, the Company purchased 0.1 million of treasury shares for an aggregate amount of $11.6 million that had not settled on December 31, 2012 and is included in accounts payable.

21. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED)

Unaudited quarterly results of operations for the years ended December 31, 2012 and 2011 are presented below.

	Quarter Ended			
	March 31, 2012	June 30, 2012	September 30, 2012	December 31, 2012
	(In thousands, except per share amounts)			
Revenues	$ 891,569	$ 866,485	$ 911,492	$ 971,844
Operating expenses	638,950	625,942	647,021	755,113
Operating income	252,619	240,543	264,471	216,731
Interest expense, net	65,652	73,067	74,365	78,376
Income before income taxes	186,967	167,476	190,106	138,355
Provision for income taxes	71,738	63,655	70,561	54,694
Net income	$ 115,229	$ 103,821	$ 119,545	$ 83,661
Net income per share—basic	$ 2.30	$ 2.07	$ 2.39	$ 1.68
Net income per share—diluted	$ 1.86	$ 1.63	$ 1.84	$ 1.27

	Quarter Ended			
	March 31, 2011	June 30, 2011	September 30, 2011	December 31, 2011
	(In thousands, except per share amounts)			
Revenues	$ 740,436	$ 740,458	$ 844,844	$ 847,549
Operating expenses	528,528	548,667	617,165	666,247
Operating income	211,908	191,791	227,679	181,302
Interest expense, net	71,459	78,794	74,356	73,976
Income before income taxes	140,449	112,997	153,323	107,326
Provision for income taxes	54,073	43,974	59,342	41,420
Net income	$ 86,376	$ 69,023	$ 93,981	$ 65,906
Net income per share—basic	$ 1.69	$ 1.35	$ 1.86	$ 1.31
Net income per share—diluted	$ 1.56	$ 1.19	$ 1.60	$ 1.11

22. SUBSEQUENT EVENT

In February 2013, Master Trust I issued $500.0 million of term asset-backed securities to investors, which will mature in February 2018. The offering consisted of $375.0 million of Class A Series 2013-A asset-backed notes with a fixed interest rate of 1.61% per year and an aggregate of $125.0 million of subordinated classes of the term asset-backed notes that were retained by the Company and will be eliminated from the consolidated financial statements.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, Alliance Data Systems Corporation has duly caused this annual report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

ALLIANCE DATA SYSTEMS CORPORATION

By: /S/ EDWARD J. HEFFERNAN
Edward J. Heffernan
President and Chief Executive Officer

DATE: February 28, 2013

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of Alliance Data Systems Corporation and in the capacities and on the dates indicated.

Name	Title	Date
/S/ EDWARD J. HEFFERNAN **Edward J. Heffernan**	President, Chief Executive Officer and Director	February 28, 2013
/S/ CHARLES L. HORN **Charles L. Horn**	Executive Vice President and Chief Financial Officer	February 28, 2013
/S/ LAURA SANTILLAN **Laura Santillan**	Senior Vice President and Chief Accounting Officer	February 28, 2013
/S/ BRUCE K. ANDERSON **Bruce K. Anderson**	Director	February 28, 2013
/S/ ROGER H. BALLOU **Roger H. Ballou**	Director	February 28, 2013
/S/ LAWRENCE M. BENVENISTE, PH.D. **Lawrence M. Benveniste, Ph.D.**	Director	February 28, 2013
/S/ D. KEITH COBB **D. Keith Cobb**	Director	February 28, 2013
/S/ E. LINN DRAPER, JR., PH.D. **E. Linn Draper, Jr., Ph.D.**	Director	February 28, 2013
/S/ KENNETH R. JENSEN **Kenneth R. Jensen**	Director	February 28, 2013
/S/ ROBERT A. MINICUCCI **Robert A. Minicucci**	Chairman of the Board, Director	February 28, 2013

SCHEDULE II

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED VALUATION AND QUALIFYING ACCOUNTS

Description	Balance at Beginning of Period	Charged to Costs and Expenses	Charged to Other Accounts [1]	Write-Offs Net of Recoveries	Balance at End of Period
			(In thousands)		
Allowance for Doubtful Accounts —Trade receivables:					
Year Ended December 31, 2012	$ 2,406	$ 2,270	$ 384	$ (1,141)	$ 3,919
Year Ended December 31, 2011	$ 4,350	$ 2,141	$ 547	$ (4,632)	$ 2,406
Year Ended December 31, 2010	$ 6,736	$ 1,939	$ 16	$ (4,341)	$ 4,350
Allowance for Loan Loss —Credit card receivables:					
Year Ended December 31, 2012	$ 468,321	$ 285,479	$ 11,000	$ (282,842)	$ 481,958
Year Ended December 31, 2011	$ 518,069	$ 300,316	$ (10,000)	$ (340,064)	$ 468,321
Year Ended December 31, 2010	$ 54,884	$ 387,822	$ 524,215	$ (448,852)	$ 518,069

(1) For the year ended December 31, 2010, a charge of $523,950 due to the adoption of ASC 860 and ASC 810 is included in the Allowance for Loan Loss – Credit card receivables.

Exhibit 10.26

FOURTH AMENDMENT TO INDUSTRIAL BUILDING LEASE

THIS FOURTH AMENDMENT TO INDUSTRIAL BUILDING LEASE (this "Amendment") is made and entered into as of this 26th day of March, 2012, by and between **Aspen Marketing Services, LLC**, a Delaware limited liability company, as successor to Aspen Marketing Services, Inc., a Delaware corporation ("Tenant"), and **A. & A. Conte Joint Venture Limited Partnership**, an Illinois limited partnership, its successors and assigns ("Landlord").

R E C I T A L S:

A. Landlord and Tenant are parties to that certain Industrial Building Lease dated June 3, 2003 (the "Initial Lease"), as amended by: (i) that certain First Amendment to Industrial Building Lease dated as of August 1, 2003 ("First Amendment"); (ii) that certain Second Amendment to Industrial Building Lease dated January 1, 2009 ("Second Amendment"), and (iii) that certain Third Amendment to Industrial Building Lease dated as of October 12, 2010 ("Third Amendment") (hereinafter, the Initial Lease, First Amendment, Second Amendment and Third Amendment are referred to collectively as the "Lease").

B. Pursuant to the Lease, (i) Landlord has agreed to lease to Tenant, and Tenant has agreed to lease from Landlord, approximately 108,438 square feet of warehouse and office space (the "Existing Premises") in the building located at 1240 North Avenue, West Chicago, Illinois (the "Building"), and (ii) Landlord has agreed to construct and lease to Tenant and Tenant has agreed to lease from Landlord, approximately 46,974 square feet of additional space in the Building (as more particularly defined below, the "New Premises"), in each case, subject to the terms and conditions set forth in the Lease. Hereinafter, the Existing Premises and the New Premises are referred to collectively as the "Premises".

C. Landlord and Tenant desire to further amend the Lease in order to, among other things, (i) amend the date for delivery of the New Premises, and (ii) amend certain provisions pertaining to the purchase and sale of furniture for the New Premises.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable considerations, the receipt, adequacy and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Recitals; Definitions; Conflict. The foregoing Recitals are true and accurate and by this reference are incorporated into this Amendment as if set forth at length herein. Capitalized terms used but not specifically defined herein shall have the respective meanings ascribed to them in the Lease. In the event of any inconsistency between the provisions of this Amendment and the provisions of the Lease, the terms and conditions set forth in this Amendment shall be controlling and binding upon the parties hereto.

2. Lease Term. Section 3 of the Third Amendment is hereby deleted. The Lease Term is hereby adjusted and extended such that the Lease will expire on the last day of the calendar month that is the earlier of twelve (12) years after (i) the Outside Substantial

Completion Date (hereinafter defined) and (ii) the Substantial Completion Date (hereinafter defined). The day on which the Lease will expire based on this Section 2 is referred to herein as the "Lease Expiration Date".

3. Provisions With Respect to the New Premises.

a. Delivery of the New Premises. Landlord shall construct the New Premises in compliance with all laws, using new materials of good quality, such materials being substantially similar to the materials used in the Existing Premises in accordance with the plans and specifications set forth in Exhibit A attached hereto ("Plans and Specifications"), which Plans and Specifications supersede any and all prior drawing, plans or other specifications with respect to the New Premises regardless of whether or not any such drawings were heretofore incorporated into the Lease. Landlord and Tenant acknowledge and agree that the New Premises are to be constructed in good and workmanlike manner, and in a fashion similar to the Existing Premises. Subject to Tenant's compliance with the terms of this Section 3 and Tenant's timely cooperation during the construction process, Landlord shall deliver possession of the New Premises to Tenant on or before December 31, 2012 (such date, as it may be extended due to Tenant Delays or Force Majeure Events is referred to herein as the "Outside Substantial Completion Date"). The date on which Landlord actually delivers possession of the New Premises to Tenant is referred to herein as the "Substantial Completion Date".

b. Condition of New Premises. The New Premises shall be constructed in accordance with the Plans and Specifications (hereinafter defined) and the terms and conditions of the Lease (as amended hereby). On the Substantial Completion Date, Landlord shall deliver possession of the New Premises to Tenant in good, vacant, broom clean condition, with all building systems in good working order and the roof water-tight, and in compliance with all laws. The reference in the immediately preceding sentence to the New Premises being in compliance with all laws shall not apply to the use to which Tenant will put the New Premises to the extent such use alters or imposes additional requirements on the New Premises under said laws, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Tenant's use, or to any alterations to the New Premises made by or at the request of Tenant.

c. Changes.

i. Tenant Changes. If Tenant desires changes in the work, upon submission by Tenant of the necessary information and/or plans and specifications for such changes that impact the design of the New Premises (referred to herein as "Changes"), Landlord may incorporate such changes into the work. Prior to commencing any changes which would exceed $2,500 in additional Tenant cost, Landlord will submit a proposal (the "Proposal") to Tenant showing the cost of such Changes. The Proposal shall include a form of Change Order ("Change Order"). Tenant may approve the Proposal by executing and delivering the Change Order to Landlord within the time period specified in the Proposal (or within five (5) business days, if no period is specified). If Tenant fails to approve the Proposal within the applicable time period, Landlord may

proceed to do only the work in the Plans. Tenant agrees to pay the cost of Changes within thirty (30) days after substantial completion of the work.

ii. Landlord Changes. Landlord may make changes in the Plans and Specifications which solely affect the structure of the New Premises without permission of the Tenant if such changes are in accordance with paragraph "a" above. Such change shall not affect the intended design of the Premises or reduce the quality of any construction materials (including finishes) used to construct the New Premises.

iii. Notices. If and when required hereunder, Landlord shall give written notice of any Changes to Janet Greenough, c/o Epsilon Data Management, LLC at 601 Edgewater Drive, Wakefield, MA 01880; 781-685-6719; jgreenough@epsilon.com or to such other responsible officer and/or address of Tenant as Tenant may nominate by written notice to Landlord from time to time. If and when required hereunder Tenant shall give written notice to Arturo J. Conte, c/o A. & A. Conte Joint Venture Limited Partnership, 31W007 North Avenue, West Chicago, Illinois 60185.

d. Change Orders; Extension of Outside Substantial Completion Date. After receiving a Change Order, Tenant shall, by written notice given to Landlord, approve or disapprove all changes therein requested. The period of time commencing upon the receipt by Tenant of a Change Order and ending upon receipt by Landlord of Tenant's written response thereto shall be construed as a Tenant Delay.

e. Construction Provisions. For the purposes of Section 3.a. hereof, the New Premises shall be deemed available for occupancy when Landlord notifies Tenant in writing that the New Premises have been substantially completed, Landlord has received all approvals and permits from the applicable governmental authorities required for legal occupancy of the New Premises and Landlord delivers possession of the New Premises to Tenant in accordance with the Lease. During the construction process, Landlord will permit Tenant access to the New Premises for purposes of Tenant installing certain cabling and fixtures therein. Landlord will give Tenant two (2) weeks notice prior to the time at which Landlord expects to permit Tenant such access. If and to the extent Tenants temporary use of the New Premises as aforesaid results in a delay in Landlord's construction of the New Premises, then the same shall constitute a Tenant Delay. Landlord's Work shall be deemed substantially completed notwithstanding (a) that certain minor or non-material details of construction, mechanical adjustment or decoration ("punchlist items") are incomplete, or (b) portions of the New Premises are incomplete because such work cannot be performed until work to be performed by or on behalf of Tenant is completed and about which Landlord previously notified Tenant. Upon the delivery of the New Premises to Tenant, Landlord shall assign to Tenant all warranties received from contractors or subcontractors for the work performed on the New Premises (such assignment, however, shall be limited (1) to the extent that any such warranties are assignable and (2) in duration to the shorter of (i) the life of said warranty, or (ii) the Term of the Lease). In the event Landlord is delayed in substantially completing the New Premises by any delay, interference or hindrance (which shall include, without being

limited to, any delays in connection with Change Orders), directly or indirectly, of such work (1) by Tenant, Tenant's contractors or any of their employees or agents, (2) by Tenant's request for unusual or unique materials which cannot be timely delivered, (3) by any changes in such work or materials requested by Tenant and agreed to by Landlord after the execution of this Amendment, (4) by Tenant's failure to timely and properly perform any of its obligations under the Lease (as amended hereby) (any of the foregoing items (1) through (4) hereinafter being referred to as a "Tenant Delay"), or (5) any force majeure events or other events beyond the control of Landlord (collectively, "Force Majeure Events"), then in each such case, the Outside Substantial Completion Date shall be extended on a *pari passu* basis.

f. Tenant Delays. Tenant shall indemnify and defend Landlord from and against all increased costs or damages incurred by Landlord and attributable to any Tenant Delays. Without limiting the generality of the foregoing, but also without duplication, if any Tenant Delay results in the extension of the Substantial Completion Date, then Tenant's obligation to pay the Base Rent set forth in Section 6 below shall commence as of the date that the Substantial Completion Date would have occurred but for the Tenant Delay(s).

g. Utilities. From and after the Substantial Completion Date, Landlord shall furnish utilities to the New Premises to the same extent that Landlord currently supplies utilities to the Existing Premises. Any and all utilities which are currently paid for by Tenant, or are otherwise Tenant's obligation pursuant to the Lease, shall continue to be Tenant's obligation with respect to the New Premises.

h. Replacement of HVAC Units. Within six calendar months of the Substantial Completion Date, Landlord will (on a one-time basis) replace all existing HVAC units for the Existing Premises that have not previously been replaced. Until such time, Landlord shall pay for the costs to repair any such HVAC units that breakdown prior to the replacement thereof. The foregoing notwithstanding, the obligation to maintain the HVAC units (both before and after the replacement thereof as provided in this paragraph) in connection with usual wear and tear shall be Tenant's responsibility as provided under the Lease. This Section 3(g) replaces the second, third and fourth sentences of Section 6 of the Third Amendment to Lease.

i. Failure to Deliver New Premises. If the Landlord has not delivered possession of the New Premises to Tenant on or before the Outside Substantial Completion Date, as Tenant's sole and exclusive remedy, Landlord shall pay Tenant $500 (which payment may be made by offsetting amounts owed Landlord under the Lease) per day until the Substantial Completion Date occurs (or would have occurred absent Tenant Delay).

j. References to New Premises Commencement Date. Any references in the Third Amendment to the "New Premises Commencement Date", "Lease Premises Commencement Date" or "Substantial Completion Date" shall mean and refer to the Substantial Completion Date as herein defined.

4. Office Furniture. After the Substantial Completion Date, Landlord shall purchase $ worth of furniture selected by Tenant for Tenant's use in the New Premises (such furniture being referred to herein as the "Landlord's Furniture"). Tenant shall be responsible for purchasing the balance of the furniture for the New Premises, and Tenant hereby releases and discharges any obligation of Landlord to purchase furniture as set forth in the last paragraph of Section 5 of the Third Amendment, which is hereby deleted except as set out herein. Upon the expiration of the Lease Term, Tenant shall either (i) purchase Landlord's Furniture from Landlord at the fair market value thereof (as determined by an independent third-party appraiser acceptable to Landlord and Tenant), and in such case, remove all furniture and other personal property of Tenant from the Premises on or before the Lease Expiration Date, or (ii) by execution of a bill of sale, convey to Landlord, free and clear of any liens or encumbrances, all of the furniture in the Premises that is then-owned by Tenant. If Tenant desires to proceed as set forth in proviso 4.(i) above, then Tenant shall give written notice thereof to Landlord not less than sixty (60) days prior to the Lease Expiration Date. Failure to provide written notice at least sixty (60) days prior to the Lease Expiration Date as aforesaid shall be deemed Landlord's waiver of the right to purchase Landlord's Furniture, and in such case, the parties shall proceed as set forth in proviso 4.(ii) above.

5. Return of Security Deposit. In derogation of Landlord's obligation to return a portion of the Security Deposit as provided in the last paragraph of Section 18 of the Third Amendment, which is hereby deleted, Landlord shall return to Tenant Dollars ($) of the security deposit currently being held by Landlord, such payment to take place within thirty (30) days of the execution of this Fourth Amendment. Landlord and Tenant acknowledge and agree that, after the return of the $ to Tenant as aforesaid, the amount of the security deposit held by Landlord pursuant to the Lease will be Dollars ($), such amount including the last month's rent for both the Existing Premises and the New Premises. If Landlord fails to promptly refund such amount, Tenant shall have the right to offset such amount against rent coming due under the Lease.

6. Base Rent. Prior to the Substantial Completion Date, Tenant shall continue to pay all amounts due under the Lease with respect to the Existing Premises. Commencing on the first day of the calendar month immediately following the Substantial Completion Date (unless the Substantial Completion Date falls on the first of the month, in which case, commencing on the Substantial Completion Date), Tenant shall pay Base Rent for the Premises in equal monthly installments as set forth in the Third Amendment. In addition to said Base Rent, Tenant shall continue to pay to Landlord, directly or indirectly, all other amounts owed under the Lease, including, without limitation, and to the extent applicable, all additional rent, taxes, insurance premiums and maintenance expenses.

7. Related Office Leases. The Termination Agreement referred to in Section 8 of the Third Amendment shall be executed effective as of the Substantial Completion Date. Tenant shall have thirty (30) days from the Substantial Completion Date to vacate Building 31W001 (the "Temporary Facility") and move into the New Premises, provided, however, that Tenant may continue to occupy the Temporary Facility for more than (30) days if Tenant pays Landlord rent for said facility in the same amount heretofore paid to Landlord for the use and occupancy of such space. If Tenant does not return the Temporary Facility (hereinafter defined) to Landlord

in substantially the same condition in which it was delivered to Tenant (usual wear and tear excepted), then in such case, Landlord shall, by written notice given to Tenant not more than thirty (30) days after Tenant vacates the Temporary Facility, invoice Tenant for the costs of any repairs required for the Temporary Facility. Tenant shall, within thirty (30) days of receiving said invoice, pay to Landlord the amount set forth therein, subject to Tenant's right to contest the same. Landlord may, if not paid within thirty (30) days as aforesaid, offset any amounts owed by Tenant against the Security Deposit (in which case Tenant shall replenish the Security Deposit at Landlord's request). The last two sentences in Section 8 of the Third Amendment shall be deleted in their entirety. The amount of Security Deposit held by the Landlord shall be as set out in Section 5 above. Landlord shall be permitted to, and Tenant shall, without undue interruption to Tenant's business operations at the Temporary Facility, cooperate with Landlord's efforts to show the Temporary Facility to prospective tenants that may which to let the New Facility after Tenant vacates the same.

8. Lease Guaranty. In connection with and as a condition precedent to Landlord's agreement to enter into this Amendment, construct the New Premises, and return the portion of the Security Deposit as described in Section 5 hereof, Alliance Data Systems Corporation, a Delaware corporation and affiliate of Tenant ("Alliance"), shall execute and deliver to Landlord a Lease Guaranty in form and substance substantially similar to that set forth in Exhibit B hereto (the "Lease Guaranty"). Any default by Alliance under the Lease Guaranty shall constitute a default by Tenant hereunder, and in such case, Landlord shall have the right to exercise any and all remedies available to Landlord under this Lease, at law or in equity, in each case to the same extent as if Tenant had committed a material breach hereunder.

9. Estoppel Certificates. Landlord or Tenant shall from time to time, without charge, upon not less than ten (10) days' prior written notice from the requesting party, execute acknowledge and deliver to the requesting party a statement in writing in form and substance reasonably acceptable to the requesting party. Landlord and Tenant shall have the right to modify any estoppel certificate being executed by such party to reflect any applicable facts or circumstances that are not expressly set forth in such certificate.

10. Subordination.

a. Subordination and Non-Disturbance. Tenant agrees that the Lease shall at all times be subject and subordinate to the lien of any mortgage granted by Landlord against the Premises (a "Mortgage") and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements and extensions thereof; provided, however, that the holder of such Mortgage (a "Mortgagee") shall not disturb Tenant's use and occupancy of the Premises if and so long as Tenant is not in default under the Lease (after all applicable grace or cure periods therein provided). Notwithstanding the foregoing, a Mortgagee shall have the right, at its sole option, at any time, to subordinate and subject the Mortgage, in whole or in part, to this Lease by recording a unilateral declaration to such effect.

b. Attornment. Tenant agrees to attorn, from time to time, to each Mortgagee, or any purchaser of the Premises, for the remainder of the Lease term, provided that such Mortgagee or such purchaser shall then be entitled to possession of the

Premises subject to the provisions of the Lease. The provisions of this Section shall inure to the benefit of such Mortgagee or such purchaser, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon foreclosure of the Mortgage (in which event the parties shall execute a new lease for the remainder of the Lease term, such new lease to be in the same form and substance as the Lease), shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions. If any Mortgage is foreclosed or Landlord's interest in the Lease is conveyed or transferred in lieu of foreclosure: (a) no person or entity which as a result of foreclosure of a Mortgage or deed in lieu thereof has succeeded to the interests of Landlord in the Lease (a "Successor") shall be liable for any default by Landlord or any other matter which occurred prior to the date such Successor succeeded to Landlord's interests in the Lease, nor shall such Successor be bound by or subject to any offsets or defenses which Tenant may have against Landlord or any other predecessor in interest to such Successor; (b) no Successor shall be bound to recognize any prepayment of rent made by Tenant more than one (1) month in advance of the date due under the Lease; and (c) no Successor shall be bound to recognize any amendment or modification of the Lease made without the written consent of the Mortgagee.

11. Mortgage Documents. In connection with and as a condition precedent to the effectiveness of this Fourth Amendment, Tenant shall execute and deliver to Landlord and Landlord's mortgagee, a Tenant Estoppel Certificate and a Subordination, Non-Disturbance and Attornment Agreement in the form set forth in Exhibit C hereto.

12. Counterparts. This Amendment may be executed in counterparts, each of which shall constitute an original, and all of which, when taken together, shall one fully executed agreement.

13. Submission of Amendment. Submission of this Amendment to Tenant shall not bind Landlord to the terms hereof, and no duty or obligation on Landlord shall arise hereunder until (i) this Amendment is signed and delivered by all of the parties hereto, Tenant executes and delivers the Tenant Estoppel Certificate and Subordination, Non-Disturbance and Attornment Agreement as required under Section 11 above, and (iii) Alliance executes and delivers the Lease Guaranty as required under Section 8 above.

14. Restoration. Tenant shall, upon the expiration of the Lease Term, restore the Premises to the condition it was in when delivered to Tenant (which, for the New Premises, shall mean the condition of the New Premises on the Substantial Completion Date, but for the removal of furniture which shall be governed by Section 14 of this Amendment). Tenant may, in connection with any improvement hereafter made to the Premises by or on behalf of Tenant (but excluding the construction of the New Premises), request that Landlord waive Tenant's obligation to restore said improvement upon the conclusion of the Lease. Any such request shall be made in writing to Landlord and shall detail the improvement(s) for which said waiver is sought. Without limiting the generality of the foregoing, and as an accommodation to Tenant, and not in derogation of Tenant's obligations under the Lease, Landlord agrees to walk through the Existing Premises with a representative of Tenant, upon reasonable advance notice from Tenant to identify certain improvements which have been made to the Existing Premises which must be restored to their original condition pursuant to the Lease.

15. Entire Agreement. This Amendment and the Lease contain the entire agreement between Landlord and Tenant with respect to the Premises. Except for the Lease and this Amendment, no prior agreements or understandings between Landlord and Tenant with respect to the Premises shall be valid or of any force or affect.

16. Severability. If any provision of this Amendment or the application thereof to any person or circumstance is or shall be deemed illegal, invalid or unenforceable, then in such case, the remaining provisions hereof shall remain in full force and effect.

17. Survival of Lease. Except as modified hereby, all of the terms, conditions, agreements, covenants, representations, warranties and indemnities contained in the Lease remain in full force and effect.

18. Successors and Assigns. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Tenant shall not assign its rights or obligations under the Lease or this Amendment without the prior written consent of Landlord. Notwithstanding the foregoing, Tenant may, without Landlord's prior consent and without constituting an assignment or sublease, sublet the Premises or assign the Lease and this Amendment to (a) an entity controlling, controlled by or under common control with Tenant, (b) an entity related to Tenant by merger, consolidation or reorganization, or (c) a purchaser of a substantial portion of Tenant's assets. A transfer of Tenant's capital stock shall not be deemed an assignment, subletting or any other transfer of the Lease or the Premises. The foregoing notwithstanding, no assignment, subletting, transfer of capital stock or other purported assignment of this Lease or Tenant's obligations hereunder shall relieve Tenant or Alliance from their respective obligations under this Lease and the Lease Guaranty.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have duly executed this Amendment as of the day and year first above written.

LANDLORD:

A. & A. Conte Joint Venture Limited
Partnership, an Illinois limited partnership

By: Conte Family Corporation, its General Partner

By: /s/ Arturo J. Conte
Arturo J. Conte, President

TENANT:

Aspen Marketing Services, LLC
a Delaware limited liability corporation

By: /s/ Charles L. Horn
Name: Charles L. Horn
Title: CFO

[Signature Page to Fourth Amendment to lndustrial Building Lease]

CO-LOCATION AGREEMENT

This Co-Location Agreement ("Agreement") made this fifteen (15th) day of November, 2011 ("Effective Date"), is by and between **Epsilon Data Management, LLC**, with a place of business at 4401 Regent Blvd., Irving, TX 75063 ("Epsilon") and **Cyrus Networks, LLC d/b/a CyrusOne,** a Delaware corporation with a place of business at 5150 Westway Park Blvd., Houston, Texas 77041 ("Provider"), each a "Party" and together, the "Parties."

WHEREAS, Epsilon is interested in obtaining co-location services from Provider for which Epsilon will place its equipment and the equipment of its permitted users at any time, (the "Equipment") in Provider's Premises; and

WHEREAS, Provider leases or owns space in the building(s) located at The Lewisville Technology Center, 2501 S. State Highway 121, Lewisville, Texas 75067 (the "Premises").

NOW, THEREFORE, the Parties agree as follows:

1. **Provider Representations, Warranties, and Obligations.**
   a. Provider shall provide to Epsilon the following:

      i. Physical space as set forth in Exhibit A for the Equipment ("Equipment Space").
      ii. Uninterrupted HVAC and power as set forth in the SLA, and grounding for the Equipment and Equipment Space as required pursuant to this Agreement and as may further be described in any SOW.
      iii. Sufficient back-up generator capabilities and capacity to ensure an uninterrupted power supply as required by this Agreement.
      iv. Access to the Premises, including the Equipment Space, during normal business hours so that Epsilon may perform installation, operation, maintenance, replacement and repair functions in the Equipment Space, all in accordance with the terms of this Agreement, including the Exhibits, Appendices and Schedules.
      v. Provider agrees to provide the services set forth in this Agreement, as modified or enhanced by any agreed and executed Statement of Work ("SOW") between the parties (the "Services"). Unless otherwise specifically set forth in writing, the terms of this Agreement shall prevail in the event of any inconsistency between it and any SOW.
      vi. Provider shall make commercially reasonable efforts to install a DWDM network between Building 7 of the Premises and any future Provider buildings in the Dallas Ft. Worth area. In such event, Epsilon shall have the option to use the DWDM network, at cost to Epsilon, as a method to interconnect Provider facilities in which Epsilon has space. The addition of DWDM services shall require a Project Change Request, which shall be consistent with the terms of this Section 1(a) (vi).

   b. Provider will adhere to the Service Levels ("SLA") set forth in Exhibit B. Exhibit B sets out the SLA's and the methodology for the reduction in Fees for any SLA failure.
   c. Provider will provide and adhere to the Customer Support Guide as developed from the outline attached hereto as Exhibit E.
   d. Provider shall maintain Data Center Tier IV certification for Mechanical and Electrical with TIA 942 or the then preferred industry standard certification supplier of Provider.
   e. Provider has the authority to enter into this Agreement and has obtained (or will obtain) and will maintain, at its sole expense, all consents, inspections, permits, licenses, or other approvals required for Provider to fulfill its obligations under this Agreement.
   f. Provider is responsible for all Premises utilities including but not limited to electricity and water and, if applicable, other utilities as described in any SOW executed pursuant to this Agreement.
   g. Provider will engineer the space for the minimum megawatt (MW) of critical load power based on Epsilon's requirements as set forth in Appendix I, approximately 150W/RFSF on the Go-Live Date scaling up to 300W/RFSF as necessary to meet Epsilon requirements.
   h. Provider shall reimburse Epsilon $ per day for each day of delay from the mutually agreed upon Go-Live Date, provided that Provider shall only reimburse Epsilon in the event the delay is caused by Provider and is not related to a force majeure event. For avoidance of doubt, Provider shall not be responsible for any delays caused by Epsilon's failure to provide timely information or otherwise assist in the implementation of Services.
   i. Provider will not grant a security interest in, include the Equipment on any UCC financing statement, or otherwise encumber or allow any of the Equipment to become subject to a lien. Provider does not gain any ownership interest in the Equipment by means of this Agreement.
   j. Provider is currently engaged in the certification process with the Uptime Institute to obtain Tier III certification with regard to the Premises. Provider shall use commercially reasonable efforts to complete this process and obtain the Tier III Certification. In addition, Provider shall provide monthly updates to Epsilon regarding the status of Provider's certification.

2. **Epsilon Representations and Warranties.**
   a. Epsilon represents and warrants that it has the authority to enter this Agreement and perform its obligations hereunder.
   b. Epsilon represents and warrants that in connection with the exercise of its rights and performance of its obligations under this Agreement, Epsilon shall at all times comply with the terms and conditions of this Agreement including without limitation all exhibits and attachments, Provider's Acceptable Use Policy (the "AUP"), and all applicable Laws. Epsilon further represents and warrants that it will not interfere with any other occupant of the Premises.
   c. Epsilon represents and warrants that as of the Effective Date, and at all times during the Term, it shall own or have the legal right to place and use the Equipment as contemplated herein, and that it shall exercise its rights and perform its obligations under this Agreement without infringing, misappropriating or otherwise violating any intellectual property rights of Provider, any third party or any applicable Law. Epsilon further represents and warrants that its placement and use of the Equipment will not pose a physical threat to Provider, the Premises, or customers of Provider and comply with all policies, procedures, and security requirements provided by Provider. Epsilon further represents and warrants that as of the Effective Date, and at all times during the Term, it has obtained (or will obtain) and will maintain, at its sole expense, all consents, inspection, permits, licenses, or other approvals required for Epsilon to fulfill its obligations under the Agreement and to utilize the Equipment Space and Services as contemplated hereunder.

3. **Term and Termination.**
   a. This Agreement is effective as of the Effective Date and, unless terminated earlier as otherwise permitted under this Agreement, will remain effective for sixty (60) months from the Go-Live Date (the "Initial Term"). Epsilon shall have the right to renew this Agreement for two (2) one (1) year renewal terms (each a "Renewal Term"). At least one hundred and twenty (120) days prior to the end of the Initial Term, or any Renewal Term, Provider shall notify Epsilon of the impending term expiration. Within thirty (30) days of receiving such notice Epsilon shall provide written notice indicating whether it intends to renew the Agreement. In the event Epsilon does not give notice of its intent to renew, Epsilon shall be deemed to have elected to renew and any Renewal Term shall require the consent of Provider. The Initial Term and the Renewal Term may be referred to herein as the "Term."
   b. This Agreement may be terminated for convenience by Epsilon before the 5th year of the Term upon ninety (90) days written notice, provided Epsilon pays the scheduled Termination for Convenience Fee as follows:

      i. Should Epsilon exercise this right of termination for convenience, Epsilon shall be obligated to pay the following Termination for Convenience Fee, in addition to any unamortized broker fees or additional termination for convenience fees set forth in future SOWs or Order Forms: Epsilon has committed to operating at least 300 Customer Cabinets with an average monthly power consumption of 3.2kW per Customer Cabinet for at least 36 months (the "Full Ramp Period"). The monetary value of this minimum commitment is equal to US $ (the "Full Ramp Minimum Commitment"). The Termination for Convenience Fee shall be equal to that portion of the Full Ramp Minimum Commitment that has not been paid by Epsilon on the date it gives notice of its intent to terminate for convenience, without any credit for (A) amounts paid by Epsilon outside the Full Ramp Period, or (B) amounts paid during the Full Ramp Period for (1) Customer Cabinets or power usage in excess of the Minimum Commitment, or (2) amounts not attributable to the MRC for Customer Cabinets (i.e. Smart Hands Services, Pass-throughs, cross-connects, etc.) All amounts due under this Section 3(b) shall be paid immediately upon notice from Epsilon of its intent to terminate for convenience, subject to Section 3(b) (ii) below.
      ii. Should Epsilon notify Provider of its intent to exercise its Termination for Convenience in accordance with subsection (i) above within one hundred eighty (180) days (instead of the 90 day notice required above), Provider agrees that upon such notice it shall use reasonable efforts to offer the Equipment Space to potential customers with the same requirements as Epsilon before other space on the Premises in order to reduce the amount of Termination for Convenience Fee due by Epsilon to Provider. Should Provider execute an agreement with another customer regarding the Equipment Space prior to the Termination for Convenience date, the Termination for Convenience Fee shall be reduced in an amount equal to the amount of monthly recurring fees (not including amounts attributable to pass-throughs, cross-connects, smart hands services or other non-recurring charges) to be paid by the other customer during the remaining Term.

4. **Payment Terms.**
   a. Epsilon shall provide payment to Provider of all undisputed amounts due no later than forty-five (45)days after Epsilon's receipt of an invoice reflecting any applicable SLA credits as further described in Exhibit B. All payments shall be made in US dollars. Epsilon may reasonably and in good faith dispute invoices by providing notice in writing to Provider. The pricing shall be as set out in Appendix 1 (the "Fees"). Restrictive endorsements or other statements on checks will not apply to Provider. Epsilon will reimburse Provider for its costs and expenses (including reasonable attorneys' fees) associated with collecting past due amounts. Provider reserves the right to discontinue Services in the event of non-payment of undisputed amounts by Epsilon. A service disruption notice will be sent to Epsilon via email when an invoice has not been paid sixty (60) days past its invoice date.
   b. If Epsilon reasonably disputes any portion of an invoice, Epsilon must pay the undisputed portion of the invoice in accordance with the terms and conditions of this Agreement and submit a written claim with adequate detail to Provider for the disputed amount. All claims must be submitted to Provider within one hundred twenty (120) days from the invoice date for those Services. Epsilon waives the right to dispute any Fees not disputed within this one hundred twenty (120) day time frame. The parties will negotiate in good faith to try to resolve any such dispute with respect to such claims within sixty (60) days after the respective invoice date. In the event the dispute is resolved against Epsilon, Epsilon shall pay such amounts within five (5) business days of resolution. Provider shall have one hundred eighty (180) days from the date the charges were incurred to include any charges on an invoice to Epsilon.
   c. Except for taxes based on Provider's net income and ad valorem, personal and real property taxes imposed on Provider's owned or leased property, Epsilon is responsible for payment of all property, sales, use, gross receipts, and excise taxes, imposed on or based upon the provision of Services, Epsilon's use of the Premises, or the location of Equipment in the Premises (collectively "Taxes). Provider will timely invoice Epsilon for any and all Taxes payable by Epsilon under the terms of this Agreement. In the event that Epsilon is tax exempt, Epsilon shall provide Provider with a copy of a valid tax exemption certificate from the applicable taxing authority before invoicing for Services begins. Epsilon is responsible for updating such certificates upon expiration. Provider shall not recognize exempt status unless it has on file a valid tax exemption certificate.

5. **Use of the Premises and Equipment Space.**
   a. Epsilon shall be permitted to use the Equipment Space only for the operation of its data center and related activities, unless Provider in its sole discretion gives written consent to other uses. Epsilon shall also have a non-exclusive right to use the Common Space, so long as such areas are used for their intended and customary purposes. Epsilon's use of the Equipment Space and Common Space shall be subject to Provider's reasonable policies and procedures, adopted and amended from time to time, including without limitation Provider's AUP, as set out in Exhibit G. Epsilon shall ensure that the Epsilon Representatives comply with such policies and procedures and shall monitor such persons to ensure their compliance. Epsilon agrees to pay for the cost associated with any damage to the Premises caused by Epsilon or any of Epsilon Representatives, including the clean up, removal and remediation of any hazardous materials. Notwithstanding Epsilon's right to use the Equipment Space, Provider retains the right to access any and all of the Equipment Space for any legitimate business purpose, including without limitation verification of compliance with the terms and conditions of this Agreement provided that Epsilon shall be notified of such access and such access shall be in accordance with Section 7. All other non-emergency access to the Equipment Space by Provider shall require no less than ten (10) business days prior notice. To the extent an emergency arises that involves the potential loss of life, personal injury, or substantial damage to property Provider shall be permitted to immediately access the Equipment Space and take appropriate measures, without regard to any security/access policy or procedure. Provider will promptly give Epsilon notice of such actions.
   b. Changes. Epsilon may make any material alterations, improvements or installations (collectively, "Alterations") to the Equipment Space upon prior written approval of the Provider.
   c. Liens. Epsilon shall not suffer or permit any mechanic's, laborer's, or material man's lien to be filed against the Premises or any part thereof by reason of work, labor, services, or materials requested and/or supplies claimed to have been requested by Epsilon; and if such lien shall at any time be so filed, Epsilon shall cause it to be canceled and discharged of record (by bonding or otherwise), within thirty (30) days after notice of the filing thereof, and Epsilon shall indemnify and hold harmless Provider from any loss or expense incurred in connection therewith.
   d. (i) Provider agrees that the Equipment Space, as shown in Exhibit A, shall consist of approximately 10,000 square feet. This space shall be for the exclusive use of Epsilon during the Term of the Agreement.

Provider also agrees, pursuant to the terms of Epsilon's right of first refusal, to allow Epsilon to expand into additional space beyond space outlined in Exhibit A in an adjacent and contiguous manner, and will provide a space take-down plan which instructs the installation of other new customers of Provider to occupy space outside any immediate Epsilon expansion areas until such time as no suitable non-contiguous space in available within the Premises at which point the space may be offered to other customers, subject to Epsilon's right of first refusal.

(ii) Provider shall grant Epsilon a right of first refusal to any additional space available in the Data Hall or the Premises, beyond the initial 10,000 square feet of Equipment Space, in either case "Space", during the Term of this Agreement, ("Right of First Refusal"). Provider shall notify Epsilon, in writing, upon commencement of actual contract negotiations with another entity seeking to occupy that Space. Epsilon shall respond in writing within ten (10) business days indicating its intent to occupy such Space. Should Epsilon fail to respond within 10 business days, Epsilon will be deemed to have waived its Right of First Refusal as to the Space sought by such other entity. The additional Space shall be offered to Epsilon at payment terms at least as attractive as Epsilon's then-current Fees. If Epsilon does not exercise its Right of First Refusal in writing within such ten (10) days or declines to exercise its Right of First Refusal, Provider thereafter shall have the right to extend the space to such other entity at which time Epsilon's Right of First Refusal with regard to that Space, under this subsection (d) shall terminate and Epsilon shall no longer have any Right of First Refusal with regard to that Space. If Provider does not enter into a contract with regard to the Space with such other entity within one hundred and eighty (180) days of the written notification to Epsilon, Epsilon's Right of First Refusal in regards to such Space shall be reinstated. This Right of First Refusal is intended to be ongoing and fluid in order to ensure Epsilon's continued ability to expand during the Term. If Epsilon exercises its Right of First Refusal to the Space, billing for such Space shall begin upon agreed occupancy of the Space or within 90 days, whichever happens sooner.

e. Provider shall have no right to relocate Epsilon during the Term of the Agreement or any renewal periods.

6. <u>Maintenance.</u>

a. During the Term, except as provided below, Provider will be responsible for the condition, operation, repairs, replacements, maintenance and management of the Premises, including all Technical Infrastructure, except to the extent caused by Epsilon, any Epsilon Representative or the Equipment. All repairs shall be completed in a prompt and workmanlike manner. However, should Provider not make repairs in a prompt and workmanlike manner resulting in a material impact to Epsilon's operations, Epsilon shall have the right to complete any necessary repair, without harming any other tenant in the Premises, and offset such actual costs of repair against Fees owed to Provider, provided that any such repairs shall be performed by a qualified contractor that is familiar with the architecture of the Premises and agrees to comply with the provisions of this Agreement related to Epsilon contractors. All such repairs shall be performed in a diligent, competent and workmanlike manner and in a manner which will not impair the proper functioning of the Data Hall or Premises or void any manufacturers or installation warranties of equipment in the Premises.

The provision of all maintenance services performed pursuant to this subsection shall be provided at no charge to Epsilon. Provider shall maintain the Premises and Technical Infrastructure in efficient working order and in accordance with its written maintenance standards and the Customer Support Guide as developed from the outline attached as Exhibit E. Provider shall have sole responsibility, except in the case of Epsilon needing to make repairs as noted above, for negotiating, executing and administering all contracts related to the operation, maintenance and repair of the Premises and Technical Infrastructure. During the maintenance services of Provider as described above the Services may not comply with the specifications set forth in Exhibit B, provided that a plan shall be developed along with Epsilon, which addresses ways to minimize disruption to the services provided by Epsilon to its customers.

b. Provider will clean and carry out normal maintenance in the Premises provided that Epsilon shall maintain the Equipment Space as provided below. Epsilon assumes full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Equipment including the building, maintenance and repair of the cages. Epsilon at its sole expense shall clean the Equipment Space, provided that Provider shall retain responsibility for sub-floor cleaning in the Equipment Space, which it shall perform annually. In the event Epsilon desires to use a janitorial service or other similar contractor in the Equipment Space, Epsilon shall use a vendor approved in writing by Provider, such approval not to be unreasonably withheld.

7. <u>Security.</u>

a. Provider shall be responsible for developing and maintaining physical security measures for the Premises as set forth herein. Such measures shall comply with all current regulatory requirements applicable to Provider's business. Such security measures shall at a minimum, adhere to the security access procedures set forth in this

Section 7 and in Exhibit C. Further, Provider shall use commercially reasonable efforts to maintain the security measures of the kind set out in Exhibit C in a manner consistent with the then-current industry standards for efficiency and reliability.

b. Provider shall restrict access to the Equipment Space to its Staff or contractors who have a business need for access to the Equipment Space. If at any time either party becomes aware that any of the security measures in place for any portion of the Premises are compromised or otherwise violated or may not adhere to the requirements of this Agreement, such party shall provide notice of such event as soon as reasonably practicable to the other party and Provider shall restore such security to a standard consistent with its obligations under this Agreement. Provider shall also design an incident response policy whereby notice is given to Epsilon upon any potential, threatened, or successful security incident or breach of the Equipment Space. Provider shall provide Epsilon with immediate notice upon any material change to its security operations that affect Epsilon's use of the Equipment Space. In the event of a failure of the security measures, Provider shall permit Epsilon to inspect those portions of the automatic security logs for the Equipment Space upon the receipt of such notice.

c. Provider shall use commercially reasonable efforts to assist Epsilon in compliance with third party physical security obligations that may be imposed upon Epsilon by its clients from time to time provided that the cost of additional security measures shall be paid by Epsilon.

d. Provider shall ensure that the following physical and environmental safeguards are implemented:

   i. Restrict entry to the Premises to Provider's Staff authorized for such access, authorized contractors of Provider or other clients, authorized visitors of Provider or Provider's other clients, Provider's other clients, Epsilon, Epsilon Representatives and law enforcement;
   ii. Restrict entry to the Equipment Space solely to Provider's Staff ,or contractors authorized for such access on a need to know basis, Epsilon and Epsilon Representatives, all of whom shall be included on the Access List;
   iii. Implement and maintain for the infrastructure systems, including smoke and heat detection, fire extinguishing, and suppression, zoned sprinkler systems, cooling, power (including redundancy and diversity), leak detection, emergency systems, and employee safety in a manner consistent with its obligations under this Agreement. In addition, Provider shall use commercially reasonable efforts to maintain such systems in a manner consistent with prevailing industry-standard best practices;
   iv. Provide physical entry controls for all areas where Confidential Information is stored, accessed, or processed on the Premises; each of Provider's Staff accessing these areas must employ one or more unique, individually identifiable entry controls (such as card keys and biometric scans) that provide an audit trail of each entry; and all visitors who enter these areas must be logged and escorted by one of Provider's Staff who are authorized to access such area or by Epsilon;
   v. Regularly monitor areas around and in the Premises and Equipment Space, such as with cameras and closed circuit recording, at least on guard monitoring the Premises 24 hours of the day, 7 days of the week, entry logs, and response center monitoring of key Premises metrics;
   vi. Dispose equipment, physical documents and files, and physical media in a manner that prevents subsequent retrieval of Confidential Information originally stored in them. All printed material containing Confidential Information shall be shredded prior to disposal;
   vii. All access and security logs shall be maintained in accordance with Provider's standard practices and procedures as set out in Exhibit C.

8. <u>Insurance.</u>

a. As of the Effective Date and during the term of this Agreement, Provider agrees to keep in place at least the levels of insurance coverage as specified in (b) below. In addition, Provider shall maintain a Cyber policy which provides coverage for loss of data due to a physical or other access breach to the Epsilon space and/or systems in an amount not less than $20 million each occurrence.

b. Prior to use of the Premises and during the Term, Epsilon shall procure and maintain the following minimum insurance coverage:

   i. Workers' Compensation in an amount not less than that prescribed by statutory limits
   ii. Automobile liability Bodily Injury and Property Damage with limits of $1,000,000 each accident Employer's Liability with limits of $1,000,000 each occurrence
   iii. Commercial General Liability with combined single limits of $10,000,000 each occurrence
   iv. "All Risk" Property insurance covering the Equipment

c. All required insurance must be from companies with at least an A.M. Best rating of "A:XII".

d. Certificates of insurance shall name Provider as additional insured with respect to general liability. "All Risk" Property insurance shall include a waiver of subrogation in favor of Provider. Each party shall provide the other with at least thirty (30) days advance written notice of cancellation. General Liability insurance shall cover claims for bodily injury, death, personal injury and property damage occurring during performance of the Services. Each Party shall provide certificates of insurance to the other prior to the Effective Date, and thereafter upon the renewal of all policies to be maintained hereunder. The policies required in this Section may include self-insured retentions which shall be disclosed on the certificate of insurance.

9. Personnel.

a. Epsilon acknowledges and agrees that Provider may use third party contractors in the operation of the Premises provided, however, that Provider shall remain responsible for the Services to Epsilon and to perform its responsibilities and obligations under this Agreement. Provider shall, at its sole expense, perform all Services through such contractors or by its employees or agents ("Staff").
b. Provider shall, at its sole expense, retain Staff with all proper qualifications, licenses, certificates, and any other approvals to perform activities related to the Services.
c. Provider shall require its Staff to be bound by confidentiality restrictions at least as stringent as those contained in Section 13.
d. Provider shall ensure that its Staff that have access to the Premises shall have at least passed the background screening check as set out on Exhibit D and will use commercially reasonable efforts to include in its contractor contracts a requirement that its contractors conduct similar background checks on its employees.
e. Epsilon shall have the right to hire sub contractors at its sole discretion, including but not limited to equipment vendors, network services and fiber providers. Such service providers shall be considered Epsilon Representatives and will be allowed access to the Equipment Space subject to the terms and conditions of this Agreement, including without limitation adherence to the AUP as set out in Exhibit G. In addition such contractors shall be subject to all safety, access, insurance and other reasonable requirements imposed by Provider and Epsilon shall remain responsible for all activities of its contractors on the Premises. All such service providers shall be subject to the prior written approval of Provider, such approval not to be unreasonably withheld.
f. Neither party shall hire or attempt to hire or employ any of the other's personnel during the Term of this Agreement and for a period of one (1) year thereafter. Notwithstanding the foregoing, nothing herein shall be construed to prohibit either party from placing general opportunity advertisements not targeted at the other party's employees.

10. Indemnification.

a. Provider shall indemnify and hold Epsilon and any of its successors or permitted assigns harmless from and against all third party claims, causes of action, disputes, damages, costs, charges and expenses, including reasonable attorneys' fees and costs (collectively, "Losses"), arising from or related to death or injuries to any persons or any damages to any physical property caused by or arising out of any negligent, grossly negligent or illegal conduct of Provider and/or its employees, agents, including Provider's contractors or personnel.
b. Epsilon shall indemnify and hold Provider and any of its successors or permitted assigns harmless from and against all Losses directly arising from or related to (i) death or injuries to any persons or any damages to any physical property caused by or arising out of any negligent, grossly negligent or illegal conduct of Epsilon, and/or its employees, agents or personnel, or (ii) death or injuries or any damages to any physical property made by or on behalf of any Epsilon Representative, including all contractors.
c. A party seeking indemnity (an "Indemnified Party") from the other party (an "Indemnifying Party") shall not be exonerated, indemnified or held harmless to the extent of any Losses caused by (a) the negligence, gross negligence or willful misconduct of the Indemnified Party, its agents or affiliates or (b) a material breach by the Indemnified Party of its warranties, representations or obligations herein.
d. If a claim, action, suit or proceeding by a third party (a "Third Party Claim") is made against an Indemnified Party, and if such Indemnified Party intends to seek indemnity with respect thereto, such Indemnified Party shall promptly notify the Indemnifying Party of such Third Party Claim; provided that the failure to so notify shall not relieve the Indemnifying Party of its obligations hereunder except to the extent that the Indemnifying Party is actually and materially prejudiced thereby. The Indemnifying Party shall have thirty (30) days after receipt of such notice to assume the conduct and control, through counsel reasonably acceptable to the Indemnified Party and at the expense of Indemnifying Party, of the settlement or defense thereof, and the Indemnified Party shall cooperate with the Indemnifying Party in connection therewith. So long as the Indemnifying Party is reasonably contesting any such Third Party Claim in good faith, the Indemnified Party shall not pay or settle any such Third Party Claim. Notwithstanding the foregoing, the Indemnified Party shall have the right to pay or settle any such

Third Party Claim (whether or not appropriate notice has been given by the Indemnified Party); provided that, in such event, the Indemnified Party shall be deemed to have waived any right to indemnity by the Indemnifying Party for such Third Party Claim unless the Indemnifying Party shall have consented in writing to such payment or settlement. If the Indemnifying Party does not notify the Indemnified Party within thirty (30) days after the receipt of the Indemnified Party's notice of a claim of indemnity hereunder that it elects to undertake the defense thereof, the Indemnified Party shall have the right to contest, settle or compromise the Third Party Claim at any time after such thirty (30) day period, but shall not thereby waive any right to indemnity for such Third Party Claim pursuant to this Agreement. The Indemnifying Party shall not, except with the consent of the Indemnified Party, enter into any settlement for the Third Party Claim that does not include, as an unconditional term thereof, the giving by the third party asserting such Third Party Claim to the Indemnified Party of an unconditional release from all liability with respect to such Third Party Claim or consent to entry of any judgment.

11. Limitations of Liability.

a. To the maximum extent permitted by law, the limitations set forth in this Section 11 will apply to any and all claims, actions, suits and proceedings, regardless of whether any such claim, action, suit or proceeding arise in contract, tort (including without limitation negligence), strict liability or any other legal theory. Furthermore, Epsilon acknowledges that Provider has agreed to the applicable pricing and negotiated this Agreement in reliance upon the limitations of liability and disclaimers of warranties contained in this Agreement and that such limitations and disclaimers form an essential basis of the bargain between the Parties. The Parties agree that such limitations and disclaimers shall survive and apply even if found to have failed of their essential purpose.

b. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, BOTH PROVIDER AND EPSILON MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENTOR FITNESS FOR A PARTICULAR USE.

c. EXCEPT FOR AMOUNTS PAID WITH RESPECT TO THIRD PARTY CLAIMS THAT ARE SUBJECT TO INDEMNIFICATION UNDER THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE (INDLUCING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST OPPORTUNITY OR LOSS OF 'GOODWILL') WHETHER OR NOT CAUSED BY THE ACTS OR OMISSIONS OR NEGLIGENCE OF ITS EMPLOYEES OR AGENTS, AND/OR REGARDLESS OF WHETHER SUCH PARTY HAS BEEN INFORMED OF THE POSSIBLITY OR LIKELIHOOD OF SUCH DAMAGES.

d. Notwithstanding anything herein to the contrary, the Parties agree as follows:

i. General.

ii. Service Level Credits. Service Level Credits, to the extent provided for in the SLA shall be the sole and exclusive remedy for Epsilon for interruptions, suspensions, failures, defects, impairment or any other inadequacy with respect to the Services which are the subject of the SLA;

iii. Limited Recourse and Responsibility. Epsilon shall have no recourse against any assets of any person or entity other than Provider and no personal liability or personal responsibility shall attach with regard to any claim made by Epsilon related in any way to this Agreement.

12. Force Majeure.

a. A Party's obligations shall be suspended during the period and to the extent that such Party is prevented or hindered from complying therewith by any event arising from a cause beyond its reasonable control including, without limitation: (a) acts of God; (b) weather, fire or explosion; (c) war, invasion, riot or other civil unrest; (d) governmental laws, orders or restrictions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) action by any regulatory authority; (g) national or regional emergency; (h) strikes or labor stoppages or slowdowns or other industrial disturbances; or (i) shortage of adequate power or transportation

facilities (each such event a “force majeure event”). In such force majeure event, such Party shall give notice of suspension as soon as reasonably practicable to the other Party stating the date and extent of such suspension and the cause thereof, and such Party shall resume the performance of such obligations as soon as reasonably practicable after the removal of the cause. If such an event should last more than thirty (30) days and the adverse effects of such event render Provider substantially unable to comply with the material obligations hereunder, so that the commercial purposes of this Agreement are substantially frustrated, then Epsilon retains the right to terminate this Agreement, effective immediately. Notwithstanding the occurrence of a Force Majeure Event, Epsilon shall continue to pay for all Services it actually receives under this Agreement.

13. <u>Confidentiality</u>.

a. Confidential Information. For purposes of this Agreement, “Confidential Information” means confidential and proprietary information of either party or its corporate clients or Providers, affiliates, subsidiaries, or parent companies disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, without limitation, documents, prototypes, samples, plant and equipment). Confidential Information includes, by way of example, but without limitation, the Business Information, Technical Information, and Personal Information described below.

   i. Examples of “Business Information” are: products and services, employee information, business models, know-how, strategies, designs, reports, data, research, financial information, pricing information, corporate client information, market definitions and information, and business inventions and ideas.
   ii. Examples of “Technical Information” are: software, algorithms, developments, inventions, processes, ideas, designs, drawings, engineering, hardware configuration, and technical specifications, including, but not limited to, computer terminal specifications, the source code developed from such specifications, all derivative and reverse-engineered works of the specifications, and the documentation and software related to the source code, the specifications and the derivative works.
   iii. Examples of “Personal Information” are: all non-public personal information of or related to individual credit applicants, customers or consumers of either party, employee and vendor information, including but not limited to names, addresses, telephone numbers, account numbers, customer lists, credit scores, and account, financial, transaction information, consumer reports and information derived from consumer reports, that is subject to protection from publication under applicable law.

b. Agreement to Protect Confidential Information. Each party shall maintain the Technical Information in confidence for five (5) years from the date of termination or expiration of this Agreement, the Business Information for two (2) years from the date of termination or expiration of this Agreement, and the Personal Information, trade secrets and source code forever, and shall not, without the prior written consent of the disclosing party, disclose any of the Confidential Information except as permitted herein. Each party will protect the Confidential Information and will not copy, use, disclose to any third party, or access such Confidential Information without the prior written consent of disclosing party. Each party shall disclose Confidential Information only to employees, contractors, clients or agents on a need-to-know basis and only as necessary for the performance of this Agreement. Each party will use at least the same degree of care to protect the Confidential Information as it uses in protecting its proprietary, confidential and trade secret information. Confidential Information belongs to disclosing party. The obligations set forth in this Section will survive the termination or expiration of this Agreement.
c. Ownership and Use. Each party agrees that all Confidential Information contains trade secrets and that portions of the Confidential Information are copyrighted works. Accordingly, disclosing party owns all rights, title and interest in and to the Confidential Information and any and all modifications to such Confidential Information. Receiving party may not reverse-engineer any software or other materials embodying the Confidential Information. Each party acknowledges that Confidential Information may be provided for limited use internally, and each Party agrees to use the Confidential Information only in accordance with the terms and conditions of this Agreement and shall not disclose the Confidential Information to any third parties without the prior written approval of a duly authorized officer of the disclosing party.
d. No License. No right or license whatsoever is granted with respect to the Confidential Information or otherwise.
e. Control of Confidential Information. Copies of the Confidential Information shall be made only as necessary and such copies shall be subject to the same restrictions as the original Confidential Information. Receiving party shall reproduce the proprietary rights notices on any copies produced, in the same manner in which such notices were set forth on the original.
f. Exclusions. Notwithstanding the foregoing, the obligations of this Section 13 will not apply to Confidential Information that is (i) already in the public domain; (ii) disclosed to a party by a third party with the right to disclose it in good faith; (iii) specifically exempted in writing from the applicability of this Section; (iv) in the

receiving party's possession prior to receipt thereof from the disclosing party, as reasonably documented by the receiving party; or (v) developed by the receiving party without access to or use of any of the Confidential Information received from the disclosing party.

g. Disclosure Required by Law. Notwithstanding anything to the contrary in this Agreement or an attachment, each party is authorized to make any disclosure required of by it by any applicable law, rule, or regulation, after providing the other party with prior written notice (provided such notice is not prohibited by applicable Law) and an opportunity to respond prior to such disclosure.

h. Proprietary Rights. Each party regards and hereby identifies as Confidential Information its equipment, any information contained in or on the Equipment, and the existence of this Agreement and the terms herein, provided that Provider may ,with prior written consent from Epsilon, disclose in advertisements or verbally the fact that Epsilon is a customer of Provider. Each party also identifies as Confidential Information those methods and processes it employs in collecting, decoding, assembling, updating, accessing, enhancing, and modeling such data associated source and object codes and documentation, all of which, with the Equipment, are and will remain the sole and exclusive property of the disclosing party.

i. Provider shall notify Epsilon if there has been any unauthorized physical intrusion in or access to the Premises of which Provider has knowledge.

14. Audit.

a. Once per year, Epsilon shall have the right to audit Provider's security policies and practices as set forth in this Agreement in addition to compliance with the privacy policies and procedures applicable to the provision of the Services. Epsilon shall notify Provider in writing ten (10) business days in advance of the date it will audit Provider and the name of any representative, if other than Epsilon employees, who will perform the audit. Such audits shall be performed during the hours of 8:00am to 5:00pm, Monday through Friday and be non-disruptive to Provider's normal operations. Epsilon or its representatives shall abide by the Confidentiality provisions set out in Section 13 when conducting such audit. If Epsilon determines that there is a reasonable basis for a problem with Provider's compliance, including but not limited to failing to provide a SSAE 16 report as required by subsection b, with its obligations, Epsilon may, upon ten (10) business day prior written notice to Provider, conduct another audit.

b. Provider shall provide to Epsilon a SSAE 16 for each year during the Term. Such SSAE 16 shall be unqualified. If such report is qualified, Provider shall give Epsilon a plan to make corrections. Provider shall make commercially reasonable efforts to carry out such plan within ninety (90) days, provided that if such plan cannot be completed within the 90 day time period despite diligent efforts, Provider shall have a reasonable period of time to complete the plan. Failure to comply with this subsection 14(b) shall be considered an Event of Default.

15. Assignment.

a. Epsilon may assign this Agreement to (i) an Affiliate of Epsilon; or (ii) in connection with the sale of substantially all of its assets. All other assignments of any or all of this Agreement or Equipment Space by Epsilon require the prior written consent of Provider, such consent not to be unreasonably withheld. For the avoidance of doubt, any proposed assignee that is of equal or greater financial strength as Epsilon as reasonable determined by Provider shall be deemed reasonable provided that the proposed assignee is not a competitor of Provider and such assignment would not violate any Law or contractual obligation of Provider. Any assignment in violation of this Section shall be null and void. For purposes of this Agreement, "Affiliate of Epsilon" means any entity that is owned or controlled by Epsilon, Alliance Data Systems Corporation, or any entity that is wholly owned by Alliance Data Systems Corporation.

b. The term "control" as used in this Agreement (i) in the case of a corporation shall mean ownership of more than fifty (50%) percent of the outstanding capital stock of that corporation, (ii) in the case of a general or limited liability partnership, shall mean more than fifty (50%) percent of the general partnership or membership interests of the partnership, (iii) in the case of a limited partnership, shall mean more than fifty (50%) percent of the general partnership interests of such limited partnership, and (iv) in the case of a limited liability company, shall mean more than fifty (50%) percent of the membership interests of such limited liability company.

c. Users of the Services.

i. The Services may be received and used not only by Epsilon, but also by any of its Designated Entities to the same extent as Epsilon.

1. "Designated Entities" mean any persons or entities that have a business relationship with Epsilon, and which are authorized by Epsilon to receive and/or use the Services. (For example, at Epsilon's option, servers of an Epsilon customer may be installed and maintained on the racks provided by Provider to Epsilon under the applicable

SOW.) In addition, Designated Entities may not have a business relationship with Epsilon but may be authorized by Epsilon to receive and/or use the Services. (For example, Epsilon may execute an agreement to use some of the Equipment Space, not needed by Epsilon during the Term.) Designated Entities are sometimes referred to herein as “permitted users".

ii. For purposes of this Agreement, Services provided to Epsilon’s permitted users will be deemed to be Services provided to Epsilon. Only Epsilon (and not permitted users) may order Services under this Agreement or seek to enforce the Agreement, which it may do on behalf of such permitted users. As between Provider and Epsilon, Epsilon shall be responsible for permitted users’ use of the Services as if they were Epsilon. Epsilon shall be responsible for ensuring that its permitted users and their contractors adhere to the terms and conditions of this Agreement, including without limitation those obligations and restrictions contained in Sections 2, 5, 8, 9 and 13.

iii. Epsilon shall indemnify and hold Provider and any of its successors or permitted assigns harmless from and against all claims, causes of action, disputes, damages, costs, charges and expenses, including reasonable attorneys’ fees and costs arising from or related to the provision of or use of Services by permitted users, including the presence of their equipment, personnel or contractors on the Premises. Any amounts recoverable under this indemnification shall not be subject to the limitations contained in Section 11.

iv. All permitted users shall be required to maintain insurance as required under Section 8 of this Agreement and their contractors shall be subject, without limitation, to the provisions of Section 9(e).

v. Notwithstanding anything in this Agreement to the contrary, permitted users shall not be deemed to be third party beneficiaries under this Agreement. Damages incurred by a permitted user shall be subject to, and count toward, the limitations of liability set forth in this Agreement.

16. <u>Surrender of Premises/Holding Over.</u>

a. Upon the expiration or other termination of this Agreement (and subject to any extensions of Service provided by this Section), Epsilon shall have the right and obligation to remove from the Premises all Equipment and any other Epsilon property located on the Premises. Within thirty (30) days, Epsilon shall quit and surrender the Equipment Space to Provider, vacant, broom clean and in good order and condition, reasonable wear and tear excepted and shall remove all of its furniture, furnishings, Equipment and trade fixtures (“Move Out Date”). Any property that Epsilon shall be required to remove pursuant to the preceding sentence and that it shall fail to remove (including by failure to pay outstanding Fees) as of the Move Out Date shall be deemed abandoned and shall become the property of Provider and may be removed and disposed of by Provider without accountability to Epsilon. In addition, Provider may bill Epsilon for the cost of transportation, and disposal.

b. Termination Assistance Services/Extension of Services.

i. Upon written request, Provider will provide the following termination assistance services in connection with any termination or expiration of this Agreement, provided if the Agreement was terminated for an Event of Default caused by Epsilon Provider may condition termination assistance and any extension of Services on Epsilon’s cure of such Event of Default.

ii. Availability; Plan. Provider shall provide to Epsilon or Epsilon’s designee the assistance described below in subsection (iv), as requested by Epsilon, to allow the Services to continue without interruption or adverse effect and to facilitate the orderly transfer of the Services to Epsilon or its designee.

iii. Extension of Services. Epsilon may request and Provider shall extend the provision of Services for a period not to exceed twelve (12) months beyond the earlier of the effective date of termination or expiration of the Agreement under the terms and conditions in effect as of the date of the request provided that Epsilon shall continue to make payments in accordance with the Agreement. This Agreement shall continue to govern until the end of the Service extension.

iv. Termination Assistance. Upon request, Termination Assistance shall commence: (1) ninety (90) days prior to the end of the then current Term or on such earlier date as Epsilon may request; or (2) upon any notice of termination or of non-renewal of the Initial Term or any Renewal Term. Such Termination Assistance shall continue from the commencement through the end of the Initial Term or applicable Renewal Term (including any extension of time pursuant to subsection iii above). In providing Termination Assistance Provider shall (a) assist Epsilon in developing a written transition plan for the transition of Services to Epsilon or Epsilon's

designee; (b) perform consulting services as requested and are offered generally by Provider to its customers to assist in implementing the transition plan; and (c) provide other technical assistance as reasonably requested by Epsilon.

v. Payment. Provider shall invoice Epsilon monthly in arrears for the termination assistance services at the prevailing then-current rates for similar Services or, if no Services are similar, at Provider's standard rates or, in either case, rates in this Agreement, whichever is lower. This payment shall be in addition to all amounts due pursuant to this Agreement. Notwithstanding the foregoing, if Provider has terminated this Agreement based upon Epsilon nonpayment and Provider has agreed to provide termination assistance services or an extension of Services, Provider may condition its performance of the termination assistance services on Epsilon's payment for such services, monthly in advance.

17. Subordination; Estoppel Certificate.

a. The rights granted under this Agreement to Epsilon are subject and subordinate to any present or future Security Document applicable to all or any part of the Premises and to all matters to which such Security Document may be subordinate.

b. At any time and from time to time within twenty (20) days after notice to Epsilon by Provider or a lessor or mortgagee, Epsilon shall, without charge, execute, acknowledge and deliver a statement in writing addressed to such party as Provider, lessor or mortgagee, as the case may be, may designate, in form satisfactory to Provider, lessor or mortgagee, as the case may be, certifying all or any of the following: (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications); (ii) whether the Term has commenced and have become payable hereunder and, if so, the dates to which they have been paid; (iii) whether or not, to the best knowledge of the signer of such certificate, Provider is in default in performance of any of the terms of this Agreement and, if so, specifying each such default of which the signer may have knowledge; (iv) whether Epsilon has accepted possession of the Premises; (v) whether Epsilon has made any claim against Provider under this Agreement and, if so, the nature thereof and the dollar amount, if any, of such claim; (vi) either that Epsilon does not know of any default in the performance of any provision of this Agreement or specifying the details of any default of which Epsilon may have knowledge and stating what action Epsilon is taking or proposes to take with respect thereto; (vii) that, to the knowledge of Epsilon, there are no proceedings pending or threatened against Epsilon before or by any court or administrative agency which, if adversely decided, would materially and adversely affect the financial condition or operations of Epsilon, or, if any such proceedings are pending or threatened to the knowledge of Epsilon, specifying and describing the same; and (viii) such further information with respect to this Agreement or the Premises as Provider may reasonably request or lessor or mortgagee may require; it being intended that any such statement delivered pursuant hereto may be relied upon by any prospective purchaser of the Premises or any part thereof or of the interest of Provider in any party thereof, by any mortgagee or prospective mortgagee, by any lessor or prospective lessor, by any tenant or prospective tenant of the Premises or any part thereof, or by any prospective assignee of any Security Document.

c. The Premises are currently subject to an existing subordination, nondisturbance and attornment agreement between Provider and the Premises landlord and lender (the "SNDA"). Provider shall use commercially reasonable efforts to assert its rights under the SNDA such that Epsilon's use of the Premises and access to Services in accordance with this Agreement are not disturbed. If there is a new lender covering the Premises, Provider will seek an SNDA from the new lender.

18. Condemnation.

18.1 If one third or more of the Equipment Space, or the use or occupancy thereof, or any portion of the Premises required for the reasonable and proper use of the Equipment Space, shall be taken or condemned by any governmental or quasi governmental authority for any public or quasi public use or purpose or sold under threat of such a taking or condemnation (collectively, "condemned***"),*** then this Agreement shall terminate on the day prior to the date title thereto vests in such authority and Fees shall be apportioned as of such date. If less than one third of the Equipment Space or occupancy thereof or portions of the Equipment Space not required for the proper use of the Equipment Space, is condemned, then this Agreement shall continue in full force and effect as to the part of the Equipment Space not so condemned, except that as of the date title vests in such authority Epsilon shall not be required to pay Fees with respect to the part of the Equipment Space so condemned. Provider shall notify Epsilon of any condemnation contemplated by this Section 18.1 promptly after Provider receives notice thereof. Within ten (10) days after receipt of such notice, Epsilon shall have the right to terminate this Agreement with respect to the remainder of the Equipment Space not so condemned as of the date title vests in such authority, but only if such condemnation renders said remainder of the Equipment Space totally unsuitable for their intended purpose.

18.2 All awards, damages and other compensation paid by the condemning authority on account of such taking or condemnation (or sale under threat of such a taking) shall belong to Provider, and Epsilon hereby assigns to Provider all rights to such awards, damages and compensation. Epsilon agrees not to make any claim against Provider or Provider's lessoror the condemning authority for any portion of such award or compensation attributable to damages to the Equipment Space , the value of the unexpired term of this Agreement, the loss of profits or goodwill, leasehold improvements or severance damages. Nothing contained herein, however, shall prevent Epsilon from pursuing a separate claim against the condemning authority for the value of furnishings, equipment and trade fixtures installed in the Equipment Space at Epsilon's expense and for relocation expenses, provided that such claim does not in any way diminish the award or compensation payable to or recoverable by Provider in connection with such taking or condemnation.

19. Default.

19.1 Each of the following shall constitute an "Event of Default" by Epsilon or the Provider, respectively, under this Agreement:

a. Epsilon's failure to make when due any payment of Fees or other sum, which failure shall continue for a period of thirty (30) days after receipt by Epsilon of written notice thereof, provided, however, that Provider shall not be required to give Epsilon more than two (2) such written notices during any year of the Term and if Epsilon is late in making a payment of Fees or other sum when due on more than five (5) occasions in one year, then no such thirty (30) cure period will apply;
b. Either Party's failure to perform or observe any material covenant or condition of this Agreement, whether or not described in the paragraph 19, which failure shall continue for a period of thirty (30) days after receipt by such defaulting Party of written notice thereof; provided, however, that if such cure cannot reasonably be effected within such thirty (30) day period and such defaulting Party begins such cure promptly within such thirty (30) day period and is pursuing such cure in good faith and with diligence and continuity during such thirty (30) day period, then, except in the event of an emergency, such defaulting Party shall have such additional time as is reasonably necessary to effect such cure (this Section 19.1b shall not apply to any failure, event, breach or occurrence described in Sections 19.1a, 19.1c, 19.1d, or 19.1e);
c. an Event of Bankruptcy as specified in Section 20 hereof;
d. Either Party's dissolution or liquidation; or
e. any sublease, assignment or mortgage not permitted by Section 15 hereof.

19.2 If there shall be an Event of Default (even if prior to the Effective Date), then the applicable provisions of this Section 19.2 shall apply subject to the limitations set forth in Section 11 (d) (ii). The non-defaulting party shall have the right, at its sole option, to terminate this Agreement upon delivery of written notice to the other party. In addition, with or without terminating this Agreement, Provider, if Epsilon has defaulted and failed to cure such breach, may re-enter, terminate Epsilon's right of possession and take possession of, the Equipment Space all in accordance with section 16. If necessary, Provider may proceed to recover possession of the Equipment Space under applicable Laws, or by such other proceedings, including re-entry and possession, as may be applicable. If Provider elects to terminate this Agreement and/or elects to terminate Epsilon's right of possession, everything contained in this Agreement on the part of Provider to be done and performed shall cease without prejudice, provided that nothing contained herein shall be deemed as limiting Epsilon's liability to pay Provider for all Fees and other sums specified herein. Whether or not this Agreement and/or Epsilon's right of possession is terminated, Provider shall have the right, at its sole option, to terminate any renewal or expansion right contained in this Agreement and to grant or withhold any consent or approval pursuant to this Agreement in its sole and absolute discretion. If an Event of Default has occurred under this Agreement and Epsilon has vacated the Equipment Space, and if Provider has terminated this Agreement as a result of such Event of Default, then Provider shall thereafter use reasonable efforts to market the Equipment Space taking into consideration other data center space owned by Provider that is currently available. Epsilon hereby expressly waives, for itself and all persons claiming by, through or under it, any right of redemption, re-entry or restoration of the operation of this Agreement under any present or future law, including without limitation any such right

which Epsilon would otherwise have in case Epsilon shall be dispossessed for any cause, or in case Provider shall obtain possession of the Premises as herein provided. Provider may market the Equipment Space or any part thereof, alone or together with other portions of the Premises, for such term(s) (which may extend beyond the date on which the Agreement Term would have expired but for Epsilon's default) and on such terms and conditions (which may include any concessions or allowances granted by Provider) as Provider, in its reasonable discretion, may determine, but Provider shall not be liable for, nor shall Epsilon's obligations hereunder be diminished by reason of, any failure by Provider to license all or any portion of the Premises or to collect any Fees due upon such license. Whether or not this Agreement is terminated or any suit is instituted, Epsilon shall be liable for any Fees or other sum which may be due or sustained prior to such Event of Default and for the remaining Term only to the extent Epsilon would have been liable if the termination was for convenience – for avoidance of doubt, this limitation only applies with respect to damages associated with unpaid Fees not for any other type of damage. The breaching party shall also be liable for all costs, fees and expenses (including, but not limited to, attorneys' fees and costs brokerage fees (to the extent proportionately allocable to the remaining Agreement Term), expenses incurred in placing the Premises in first-class condition, advertising expenses, and any concessions or allowances granted by Provider and actions taken by Epsilon pursuant to Section 6) incurred by the non-breaching party in pursuit of its remedies hereunder and/or in case of Provider recovering possession of the Premises and licensing the Premises to others from time to time until the date the Agreement Term would have expired but for the other's default. In addition, the non-breaching party may pursue any other remedies available at law or equity, subject to the limitations contained in Section 11 and hereinabove.

19.3 Except as provided in Section 11 and subject to the limitations of Section 11, all rights and remedies of the non defaulting Party set forth herein are cumulative and in addition to all other rights and remedies available to the non defaulting Party at law or in equity including those available for anticipatory breach and the exercise by the non-defaulting Party of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. No delay in the enforcement or exercise of any right or remedy by Provider or Epsilon shall constitute a waiver of any default by the other party hereunder or of such party's rights or remedies in connection therewith. Neither party hereto shall be deemed to have waived any default by the other party hereunder unless such waiver is set forth in a written instrument signed by the party against whom such waiver is asserted. If either party waives in writing any default by the defaulting Party, such waiver shall not be construed as a waiver of any covenant, condition or agreement set forth in this Agreement except as to specific circumstances described in such written waiver.

19.4 If the non defaulting Party shall institute proceedings against the other and a compromise or settlement thereof shall be made, the same shall not constitute a waiver of default or of any other covenant, condition or agreement set forth herein, nor of any of the non defaulting Party 's rights hereunder, except to the extent agreed by the non defaulting Party in writing in connection with such compromise or settlement. Neither the payment by Epsilon of a lesser amount than the installments of Fees or of any sums due hereunder nor any endorsement or statement on any check or letter accompanying a check for payment of Fees or other sums payable hereunder shall be deemed an accord and satisfaction, and Provider, in its position as the non defaulting Party may accept such check or payment without prejudice to Provider 's right to recover the balance of such Fees or other sums or to pursue any other remedy available to the non defaulting Party . Notwithstanding any request or designation by Epsilon, Provider may apply any payment received from Epsilon to any payment then due. No re-entry by Provider, and no acceptance by Provider of keys from Epsilon, shall be considered an acceptance of a surrender of this Agreement.

19.5 If Epsilon defaults in the making of any payment or in the doing of any act herein required to be made or done by Epsilon, then Provider may, but shall not be required to, make such payment or do such act after Provider delivers written notice to Epsilon. If Provider elects to make such payment or do such act, all costs incurred by Provider, shall constitute additional sums owed by Epsilon to Provider hereunder and shall be immediately paid by Epsilon to Provider. The taking of such action by Provider shall not be considered as a cure of such default by Epsilon or prevent Provider from pursuing any remedy it is otherwise entitled to in connection with such default.

20. Bankruptcy.

20.1 An "Event of Bankruptcy" is the occurrence with respect to either Party of any of the following: (a) appointment of a receiver or custodian for any property of such person, or the institution of a foreclosure or attachment action upon any property of such person; (b) filing by such person of a voluntary petition under the provisions of the Bankruptcy Code or Insolvency Laws; (c) filing of an involuntary petition against such person as the subject debtor under the Bankruptcy Code or Insolvency Laws, which either (1) is not dismissed within sixty (60) days after filing, or (2) results in the issuance of an order for relief against the debtor; (d) such person making or consenting to an assignment for the benefit of creditors or a composition of creditors; or an admission by such Party of its inability to pay debts as they become due. At any time (but in no event more than one (1) time during any calendar year unless non-bankrupt Party reasonably and in good faith believes that a substantial change in the bankrupt Party's financial condition shall have occurred) upon not less than ten (10) days' prior written notice, the bankrupt Party shall submit such information concerning the financial condition of any such person as Provider may reasonably request. Epsilon warrants that all such information heretofore and hereafter submitted is and shall be correct and complete.

20.2 Upon occurrence of an Event of Bankruptcy, the bankrupt Party shall have all rights and remedies available pursuant to Section 19 above; provided, however, that while a case (the "Case") in which the bankrupt Party is the subject debtor under the Bankruptcy Code is pending, non-bankrupt Party's right to terminate this Agreement shall be subject, to the extent required by the Bankruptcy Code, to any rights of the bankrupt Party or its trustee in bankruptcy (collectively, "Trustee") to assume or assume and assign this Agreement pursuant to the Bankruptcy Code. After the commencement of a Case: (i) Trustee shall perform all post-petition obligations of the bankrupt Party under this Agreement; and (ii) if non-bankrupt Party is entitled to damages (including, without limitation, unpaid rent) pursuant to the terms of this Agreement, then all such damages shall be entitled to administrative expense priority pursuant to the Bankruptcy Code. Any person or entity to which this Agreement is assigned pursuant to the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Agreement on and after the date of assignment, and any such assignee shall upon request execute and deliver to Provider an instrument confirming such assumption. Trustee shall not have the right to assume or assume and assign this Agreement unless Trustee promptly (a) cures all defaults under this Agreement, (b) compensates non-bankrupt Party for damages incurred as a result of such defaults, (c) provides adequate assurance of future performance on the part of Trustee as debtor in possession or Trustee's assignee, and (d) complies with all other requirements of the Bankruptcy Code. If Trustee desires to assume and assign this Agreement to any person who shall have made a bona fide offer, then Trustee shall give non-bankrupt Party written notice of such proposed assignment (which notice shall set forth the name and address of such person, all of the terms and conditions of such offer, and the adequate assurance to be provided non-bankrupt Party to assure such person's future performance under this Agreement) no later than fifteen (15) days after receipt by Trustee of such offer, but in no event later than thirty (30) days prior to the date Trustee shall make application to the appropriate court for authority and approval to enter into such assignment and assumption, and non-bankrupt Party shall thereupon have the prior right and option, to be exercised by notice to Trustee given at any time prior to the effective date of such proposed assignment, to accept (or to cause non-bankrupt Party's designee to accept) an assignment of this Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person, less any brokerage commissions which may be payable out of the consideration to be paid by such person for the assignment of this Agreement. If Trustee fails to assume or assume and assign this Agreement in accordance with the requirements of the Bankruptcy Code within sixty (60) days after the initiation of the Case (or such other period as may be provided by the Bankruptcy Code or allowed by the United States Bankruptcy Court for same), then Trustee shall be deemed to have rejected this Agreement. If this Agreement is rejected or deemed rejected, then non-bankrupt Party shall have all rights and remedies available to it pursuant to Section 19 above.

21. Parking.

From and after the Effective Date, Provider shall make up to three (3) parking spaces ("Epsilon's Parking Spaces") available to Epsilon in such areas (the "Parking Areas") of the Premises as Provider shall periodically

designate for parking. Epsilon's Parking Spaces shall be used exclusively for the parking of vehicles, belonging to or leased to or operated by Epsilon, any of Epsilon's permitted users, and their respective employees, visitors and invitees, and for not other purpose.

22. Change Requests.

Either party may request a change to this Agreement, any of the Services provided under a SOW or request new services (collectively a "Change") at any time.

A. **Epsilon Changes**.

(i) If Epsilon requests a Change, a written change request, substantially in the form of Exhibit I, ("Customer Order Form") ("Project Change Request") shall be submitted to their assigned Account Manager or Business Development Manager as appropriate. The Project Change Request will describe the proposed modification(s) to the Services, i.e., select the device(s), describe what is to be changed, and identify the priority of the request. Provider shall review each Project Change Request submitted by Epsilon and notify Epsilon as soon as practicable, of the feasibility of the requested changes, any technical, operational and pricing impacts of such Project Change Request and whether and under what terms Provider can perform the PCR ("Change Response"). Epsilon shall respond to all Change Responses in writing indicating whether it authorizes Provider to make the requested Change on the terms and conditions set forth in the Change Response ("Change Authorization"). Provider reserves the right to determine whether the requested change is out of scope of the Services covered by an existing SOW. The fees, costs and expenses associated with any resulting Change, including any increase in Provider's financing costs, shall be billed in accordance with the charging methodology set forth in the applicable SOW or Change Authorization, and shall be the responsibility of Epsilon upon written acceptance of the Change Authorization.

(ii) Any Change Request will become part of the Services only upon submission of a Change Authorization by Epsilon and acceptance by Provider, who may in its reasonable discretion reject a Change Request. All acceptable Change Authorizations will supersede any inconsistent terms of the applicable SOW or this Agreement.

B. **Provider Changes**. Provider will make no Change that will (i) increase Epsilon's total costs of receiving the Services; or (ii) materially disrupt or adversely impact the business or operations of Epsilon, without first obtaining Epsilon's written approval and the execution of a Epsilon Order Form. Provider will make no Change described above, without first (i) providing to Epsilon a written proposal describing in detail the Change, the cost to implement such Change and how the Change may disrupt or adversely impact the business or operations of Epsilon; and (ii) obtaining the prior written approval of the Change from the Epsilon.

C. **Changes Required by Law**. In the event there is a change in Laws such that the Services must be modified in order to be compliant with a Law, as defined below, the Parties will meet and negotiate in good faith to reach an agreement on the pricing impact on the Services. For purposes of this Section, the term "Laws" means all foreign and domestic laws, statutes, ordinances, codes, regulations, rules, or orders applicable to the provision, receipt or use of the Services generally or the performance of Provider's or Epsilon's obligations under this Agreement.

D. **General**. Provider will make reasonable efforts to schedule and implement all Changes so as not to disrupt or adversely impact the business or operations of Epsilon. If Epsilon owes Provider an undisputed past due amount for Services received, Provider may, in its reasonable discretion, cease to process any Project Change Requests submitted by Epsilon.

23. Definitions.

"Access List" means the list of individuals identified by Epsilon as requiring access to the Equipment Space and approved by Provider to have such access.

"Common Space" means the common areas within the Premises, including parking lots, restrooms, break rooms, hallways, and loading docks for shared use by Epsilon and other occupants of the Premises.

"Data Hall" – means Data Hall 7 in Building 7 of the Premises as set forth on Exhibit A.

Industry Standards means: standards for a Tier IV Certification for Mechanical and Electrical as defined by TIA 942 or the then-preferred industry certification supplier of Provider.

Go-Live Date: The day and time in which the designated Equipment Space is 100% functional including all power installation systems, power whips, environmental systems, security systems, fire and water detection systems.

"Epsilon Representative" means an individual on the Access List, or otherwise given access to the Premises by Epsilon, with or without the authorization of Provider.

Equipment Space: That space as depicted on Exhibit A reflecting the actual space occupied by Epsilon within the Premises.

Effective Date: That date as set out in the first paragraph of the Agreement.

Initial Term: Shall mean the sixty (60) months subsequent to the Go-Live Date.

"Laws" shall mean all applicable local, state, federal, foreign, and international laws, statutes, ordinances, codes, regulations, rules, or orders.

Losses: Shall mean those losses more fully described in Section 10 (a) Indemnification.

"Security Document" means any of the following documents which may now exist or hereafter be executed related to the Premises or any portion thereof: (a) ground or underlying license or lease; (b) mortgage or deed of trust, including any advances made thereunder; and (c) any renewal, modification, replacement or extension of any such license, lease, mortgage or deed of trust.

"Technical Infrastructure" means all systems and components owned or leased by Provider required to (a) deliver power to the Equipment Space, including but not limited to any PDU, UPS or generators; or (b) provide any other Services to Epsilon.

24. <u>General Terms</u>.

a. Counterparts. These Agreement and the Attachment(s) may be executed in two or more counterparts, each of which will take effect as an original, and all of which, together, will evidence one and same instrument.
b. Entire Agreement. The parties hereto agree that this Agreement, the Attachment(s) and SOWs executed hereunder represent the complete statement of the agreement between the parties, and supersede all prior understandings, oral or written, relating to the subject matter of this Agreement, the Attachment(s).
c. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without application of its choice of law provisions. The Parties agree that the exclusive venue and jurisdiction for purposes of any and all lawsuits, causes of action, arbitrations, or other disputes shall be in a court of competent jurisdiction in Dallas County, Texas.
d. Modification, Waiver. This Agreement, the Attachment(s) and any SOW's executed hereunder may be modified only by a writing executed by the parties hereto. Failure by either party to enforce any provision of this Agreement, an Attachment will not be deemed a waiver of that provision or of any other provision of this Agreement, such Attachment and any SOW's.
e. Notices. Any notices required or permitted pursuant to this Agreement, an Attachment and any SOWs must be in writing and will be deemed to have been sufficiently given when presented personally or sent by overnight delivery service or registered mail to:

If to Epsilon:

Jim Kaske
4301 Regent Blvd.
Irving, Texas 75063

With a copy to:
General Counsel
Epsilon Data Management, LLC
7500 Dallas Parkway, Suite 700
Plano, TX 75024

If to Provider:
General Counsel
CyrusOne
5150 Westway Park Blvd.
Houston, Texas 77041

f. Prevailing Party. The prevailing party in any suit or action under this Agreement, an Attachment or any SOWs will be entitled to reasonable attorney's fees, expenses and costs.
g. Public Statements, Use of Marks, Disclosure of Source. Provider may not issue any public statements, press

releases or promotional materials with regard to the subject matter of this Agreement, the Attachments and any SOWs which mention Epsilon and use Epsilon's logos. Provider shall conduct business under Provider's own name. Provider shall not use Epsilon's name, nor the name of Epsilon's affiliates, in providing the Services and shall not take any action or represent to any person that would lead such person to believe that Provider is part of, employed by, or an agent of Epsilon. Provider may not place signs on the Premises or otherwise advertise that Epsilon is retaining the Services. Notwithstanding anything herein to the contrary, Provider may upon prior written approval of Epsilon, however, use the Epsilon's name in advertisements identifying Epsilon as a customer of Provider.

h. Relationship of Parties. The relationship of the parties is that of independent contractors. Nothing herein will be construed to create any partnership, joint venture, or similar relationship.

i. Severability. Subject to Section 1a(v), should any provision of this Agreement, an Attachment and any SOW's be determined inconsistent with or contrary to applicable law, such provision shall be deemed amended or omitted to conform therewith. All other provisions of the Agreement, an Attachment and any SOW's shall remain in full force and effect. Further, the term or condition that is held to be illegal or unenforceable will remain in effect as far as possible in accordance with the intention of the parties.

j. Injunctive Relief. Each of the parties acknowledges that any breach of Section 13 (Confidentiality) of this Agreement may result in irreparable and continuing damage to the other party and, therefore, in addition to any other remedy which may be afforded by law, any breach or threatened breach of such section may be prohibited by restraining order and/or injunction or any other equitable remedies of any court.

k. Survival. The provisions of Sections 3, 4, 8, 9, 10, 11, 12, 13, 15, 16, 19 and 23 will survive any termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Co-Location Agreement to be executed by their duly authorized representatives as of the Effective Date.

Epsilon Data Management, LLC

By: /s/ Edward J. Heffernan
Print Name: Edward J. Heffernan
Title: Vice President

Cyrus Networks, LLC

By: /s/ Dottie Spruce
Print Name: Dottie Spruce
Title: VP of Sales

March 5, 2012

Dottie Spruce
CyrusOne
5150 Westway Park Blvd.
Houston, Texas 77041

General Counsel
Cyrus One
5150 Westway Park Blvd.
Houston, Texas 77041

Regarding: Inconsistent Date between Agreement and Order Form

The Co-Location Agreement ("Agreement") made this twenty-eight day of November, 2011 ("Effective Date"), is by and between Epsilon Data Management, LLC, with a place of business at 4401 Regent Blvd., Irving, TX 75063 ("Epsilon") and Cyrus Networks, LLC d/b/a CyrusOne, a Delaware corporation with a place of business at 5150 Westway Park Blvd., Houston, Texas 77041 ("Provider"), each a "Party" and together, the "Parties."

Epsilon provides this written letter seeking agreement from Provider as to the Go-Live Date and therefore the expiration of the Term of the Agreement. The Go-Live Date is January 15, 2012 and consequently the expiration of the Initial Term will be January 15, 2017.

By signing below both parties agree the final initial term will expire on January 15, 2017.

Epsilon Data Management, LLC

By: /s/Keith Morrow
Printed Name: Keith Morrow
Title: Chief Information Officer

By: /s/Dottie Spruce
Printed Name: Dottie Spruce
Title: VP of Sales

Exhibit 10.28

LEASE AGREEMENT BETWEEN

NOP COTTONWOOD 2795 LLC,

A DELAWARE LIMITED LIABILITY COMPANY, as

Landlord

and

ADS ALLIANCE DATA SYSTEMS, INC.,

A DELAWARE CORPORATION, as

Tenant

DATED September 21, 2010

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is entered into as of September 21, 2010, between NOP COTTONWOOD 2795, LLC, a Delaware limited liability company, as Landlord, and ADS ALLIANCE DATA SYSTEMS, INC., as Tenant.

PART I
SUMMARY OF BASIC LEASE INFORMATION

Each reference in this Summary of Basic Lease Information to the Lease Provisions contained in PART II shall be construed to incorporate all the terms provided in said Lease Provisions, and reference in the Lease Provisions to the Summary contained in this PART I shall be construed to incorporate the provisions of this Summary. In the event of any conflict between the provisions of this Summary and the provisions in the balance of the Lease, the latter shall control. The basic terms of this Lease are as follows:

A. **PREMISES (Lease Provisions, Paragraph 2)**:

1. Premises Location: Suite 100, consisting of approximately 4,389 square feet of Rentable Area, located on the 1st floor of the Building (as outlined on the floor plan attached to this Lease as Exhibit B), the street address of which is 2795 E. Cottonwood Parkway, Salt Lake City, Utah as constructed on the Land which is further described on Exhibit E hereto.

2. Number of Approximate Square Feet of Rentable Area in the Building measured consistently throughout the Building: Approximately One Hundred Thirty-Five Thousand Three Hundred Thirty-Nine (135,339) square feet.

B. **LEASE TERM (Lease Provisions, Paragraph 3)**:

1. Duration: The period commencing on the Commencement Date and ending on the Lease Expiration Date (as such terms are defined below)..

2. Commencement Date (Lease Provisions, Paragraph 6.3): The earliest to occur of the following events: (a) the date of Substantial Completion (as defined in the Work Letter Agreement) of the Premises; or (b) the date on which Landlord would have Substantially Completed the Premises and tendered possession of the Premises to Tenant but for Tenant Delays (as defined in the Work Letter Agreement attached hereto as Exhibit D; or (c) the date on which Tenant commences business operations in the Premises.

3. Lease Expiration Date (Lease Provisions, Paragraph 3): October 31, 2014.

C. **BASE RENT (Lease Provisions, Paragraph 5)**:

Period of Lease Term	Monthly Base Rent	Annual Base Rent	Base Rental Rate Per Square Foot of Rentable Area of Premises
Commencement Date - 9/30/10			
10/1/10 - 9/30/11			
10/1/11 - 9/30/12			
10/1/12 - 9/30/13			
10/1/13 - 9/30/14			
10/1/14 – 10/31/14			

D. **ADDITIONAL RENT (Lease Provisions, Paragraph 5.3)**:

1. Base Year (Lease Provisions, Paragraph 5.3.1): The Fiscal Year commencing January 1, 2010 through December 31, 2010.

2. Tenant's Share (Lease Provisions, Paragraph 5.3.1): Tenant's Share for Tenant's payment of Operating Expenses means 3.24%.

E. **SECURITY DEPOSIT (Glossary of Defined Terms)**:

Means Dollars ($).

F. **PARKING CHARGE (Lease Provisions, Paragraph 5.5)**:

During the Term of the Lease, Tenant shall lease from Landlord a total of twelve (12) automobile spaces in the Parking Facility, of which total Tenant may elect to lease up to three (3) assigned and covered automobile spaces at an initial cost of Forty-Five Dollars ($45.00) per month, plus all applicable taxes (subject to Landlord's right to increase such amount from time-to-time to the then-prevailing market rate pursuant to Section 5.5 below). The remainder of the automobile parking spaces leased by Tenant which Tenant does not elect to have assigned and covered shall be unassigned and uncovered parking spaces at an initial cost of Zero Dollars ($0.00) per month per space (subject to Landlord's right to increase such amount from time-to-time to the then-prevailing market rate pursuant to Section 5.5 below). All such automobile spaces, whether unassigned and uncovered or assigned and covered, shall otherwise be subject to the terms and conditions contained in Section 5.5 below and all other terms, conditions and regulations as are from time-to-time applicable to patrons of the Parking Facility.

G. **ADDRESSES FOR NOTICES (Lease Provisions, Paragraph 27.7)**:

1. Tenant's Address:

(a) Before Commencement Date:

ADS Alliance Data Systems, Inc.
2855 E. Cottonwood Parkway, Suite 100
Salt Lake City, Utah 84121

With a copy to:

ADS Alliance Data Systems, Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: General Counsel

(b) After Commencement Date:

ADS Alliance Data Systems, Inc.
2795 E. Cottonwood Parkway, Suite 100
Salt Lake City, Utah 84121

With a copy to:

ADS Alliance Data Systems, Inc.
7500 Dallas Parkway, Suite 700
Plano, Texas 75024
Attention: General Counsel

2. Landlord's Address:

NOP Cottonwood 2795, LLC
2855 E. Cottonwood Parkway, Suite 175
Salt Lake City, Utah 84121
Attention: Property Manager

Landlord's address for the payment of Rent is as follows:

NOP Cottonwood 2795, LLC
File #30657
PO Box 600000
San Francisco, California 94160-0657

3. Address of Landlord's Lender or Mortgagee:

c/o Bank of America
RESF Servicing
900 West Trade Street, Suite 650
NC1-026-06-01
Charlotte, North Carolina 28255
Attention: Servicing Manager

H. **TENANT IMPROVEMENTS AND SPACE PLAN (Work Letter Agreement)**:

Except as otherwise provided in this Lease, Tenant shall accept the Premises in its "AS IS" condition as of the Commencement Date. Notwithstanding the foregoing, Landlord shall construct and install the Tenant Improvements, as defined and as more particularly described in the Work Letter Agreement attached as Exhibit "D", at Landlord's cost for Tenant's occupancy on a turn-key basis in accordance with the Lease and the Work Letter Agreement.

PART II
LEASE PROVISIONS

1. **DEFINITIONS**. The definitions of certain of the capitalized terms used in this Lease are set forth in the Glossary of Defined Terms attached as Exhibit A.

2. **PREMISES**. Subject to the provisions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the premises described in the Summary of Basic Lease Information, Section "A", as outlined on the floor plan attached hereto as Exhibit B (the "Premises"). In connection with such demise and subject to Section 21 below, Landlord hereby grants to Tenant the nonexclusive right to use during the Term, all Common Areas designed for the use of all tenants in the Building, in common with all tenants in the Building and their invitees, for the purposes for which the Common Areas are designed and in accordance with all Legal Requirements. Landlord, however, has the sole discretion to determine the manner in which the Common Areas are maintained and operated, and the use of the Common Areas shall be subject to the Building Rules and Regulations. Tenant acknowledges that Landlord has made no representation or warranty regarding the Building or Premises except as specifically stated in this Lease. By occupying the Premises, Tenant accepts the Premises as being suitable for Tenant's intended use of the Premises. Landlord shall deliver the Premises in substantial compliance with all Legal Requirements (including, without limitation, the Americans with Disabilities Act of 1990, as amended) in effect as of the Commencement Date (not including any furniture, fixtures or equipment installed by or on behalf of Tenant); provided, however, Tenant's only remedy for any such non-compliance shall be that Landlord shall, within a commercially reasonable time after receipt by Landlord of a written order from a governmental authority requiring the same (whether from Tenant or directly from such governmental authority), do that which is necessary to correct the same at Landlord's sole cost and expense (and not as part of Operating Expenses).

3. **CONDITION PRECEDENT; TERM**.

3.1 **Condition Precedent**. Pursuant to that certain Lease Agreement dated as of August 29, 2002, between 2855 E. Cottonwood Parkway, L.C., ("2855 E. Cottonwood"), predecessor-in-interest to NOP Cottonwood 2855, LLC, a Delaware limited liability company ("2855 Landlord"), and Tenant, as amended by that certain First Amendment to Lease dated as of October 1, 2001, between 2855 E. Cottonwood and Tenant and that certain Second Amendment to Lease dated August 10, 2009, between 2855 Landlord and Tenant (collectively, the "2855 Lease"), 2855 Landlord is currently leasing to Tenant and Tenant is currently leasing from 2855 Landlord certain space commonly known as Suite 100 (the "2855 Premises") in that certain office building in the Complex addressed as 2855 E. Cottonwood Parkway, Salt Lake City, Utah. Tenant intends to relocate the 2855 Premises to the Premises and is currently in the process of negotiating an early termination agreement with 2855 Landlord, whereby the 2855 Lease with respect to the 2855 Premises shall be terminated prior to the expiration date thereof (herein, the "Early Termination Agreement"). Notwithstanding anything to the contrary contained in this Lease, it shall be a condition precedent to the effectiveness of this Lease (other than the provisions of this Section 3.1 and Sections 5.6. 5.8, 27.2, 27.3, 27.4, 27.6, 27.8, 27.9, 27.10, 27.11, 27.12, 27.14 through 27.20 below) that, on or before September 30, 2010, 2855 Landlord and Tenant mutually execute and deliver such Early Termination Agreement. If such condition is not timely satisfied, this Lease (other than the provisions of this Section 3.1 and Sections Sections 5.6. 5.8, 27.2, 27.3, 27.4, 27.6, 27.8, 27.9, 27.10, 27.11, 27.12, 27.14 through 27.20 below) shall thereupon automatically terminate. Tenant hereby agrees that until such condition is timely satisfied, (i) Landlord shall have no obligation to expend or disburse any funds in connection with this Lease or perform any obligations imposed upon Landlord under this Lease, and (ii) all costs incurred by Tenant in connection with this Lease shall be paid for by Tenant, at Tenant's expense, without reimbursement from Landlord.

3.2 **Term**. The provisions of this Lease shall be effective only as of the date this Lease is executed by both Landlord and Tenant. The duration of the term of this Lease shall be for the period stated in the Summary of Basic Lease Information, Section "B," commencing on the Commencement Date set forth in paragraph 6.3 below, and expiring at 5:00 p.m. on the day stated in Section "B" of the Summary of Basic Lease Information, unless earlier terminated as provided herein (the "Term").

4. **USE**. Tenant shall occupy and use the Premises solely for lawful, general business office purposes in compliance with the Building Rules and Regulations from time to time in effect. Tenant shall, and Tenant agrees to use commercially reasonable efforts to cause its agents, servants, employees, invitees and licensees to observe and comply fully and faithfully with the Building Rules and Regulations attached hereto as Exhibit C, and incorporated herein by this reference, or such reasonable modifications, rules and regulations which may be hereafter adopted by Landlord for the care, protection, cleanliness and operation of the Premises and Complex. Tenant shall also comply with all Legal Requirements and other restrictions on use of the Premises as provided in this Lease, including, without limitation, paragraph 12 hereof. The Landlord represents that the Premises are properly zoned for the permitted uses set forth herein.

5. **RENT**.

5.1 **Base Rent**. In consideration of Landlord's leasing the Premises to Tenant, Tenant shall pay to Landlord the base rent ("Base Rent") at the time(s) and in the manner stated in paragraph 5.6 below, as stated in Section "C" of the Summary of Basic Lease Information.

5.2 **No Other Adjustment of Base Rent**. The Rentable Area of the Premises is subject to a joint verification, at the election of either party, by Tenant and Landlord's property manager within fifteen (15) calendar days of the date of approval by both Tenant and Landlord of the Space Plan. In the event it is determined at the time of such verification that the Rentable Area of the Premises is different from that stated in the Summary of Basic Lease Information, Section "A", all Rent that is based on that incorrect amount shall be modified in accordance with that determination. If that determination is made, it shall be confirmed in writing by Landlord to Tenant and shall be conclusive and binding upon the parties. If neither party elects to have the joint verification within the specified time, the stipulation of Rentable Area set forth in paragraph 2 above and in the Summary of Basic Lease Information, shall be conclusive and binding on the parties. Notwithstanding the foregoing, the Base Rent set forth in paragraph 5.1 above and in the Summary of Basic Lease Information is a negotiated amount and there shall be no adjustment to the Base Rent or Additional Rent without the prior written consent of Landlord. Tenant shall have no right to withhold, deduct or offset any amount of the monthly Base Rent, Additional Rent or any other sum due hereunder even if the actual rentable square footage or Rentable Area of the Premises is less than set forth in paragraph 2 hereof.

5.3 **Additional Rent**. In addition to paying the Base Rent specified in paragraph 5.1 above, Tenant shall pay as additional rent, Tenant's Share (as defined in subparagraph 5.3.1(b) below) of Operating Expenses (as defined in subparagraph 5.4 below) for each Fiscal Year, or portion thereof, allocated to tenants of the Building pursuant to Section 5.4.2(c) below (collectively, the "Building Allocated Operating Expenses") that are in excess of the Building Allocated Operating Expenses applicable to the Base Year (as defined in subparagraph 5.3.1(a) below). Said additional rent, together with other amounts of any kind (other than Base Rent) payable by Tenant to Landlord under the terms of this Lease, shall be collectively referred to in this Lease as "Additional Rent." Operating Expenses which are normally and reasonably allocable to more than one Fiscal Year shall be prorated and allocated over such period(s). All amounts due under this paragraph 5.3 as Additional Rent are payable for the same periods and in the same manner, time and place as the Base Rent as provided in paragraph 5.6 below. Without limitation on any other obligation of Tenant that may survive the expiration of the Lease Term, Tenant's obligations to pay the Additional Rent provided for in this paragraph 5.3 shall survive the expiration of the Term.

5.3.1 Additional Rent Definitions. The following definitions apply to this paragraph 5:

(a) Base Year. "Base Year" means the Fiscal Year commencing January 1 through December 31 of the year stated in Section "D" of the Summary of Basic Lease Information.

(b) Tenant's Share. "Tenant's Share" for Tenant's payment of Building Allocated Operating Expenses means the percentage stated in Section "D" of the Summary of Basic Lease Information. If the Premises or the Building is expanded or reduced with the written consent of Landlord, the Tenant's Share shall be adjusted by written notice from Landlord to Tenant.

5.3.2 Calculation and Payment of Additional Rent. Tenant's Share of Building Allocated Operating Expenses for any Fiscal Year, or portion thereof, shall be calculated and paid as follows:

(a) Calculation of Excess. If Tenant's Share of Building Allocated Operating Expenses for any Fiscal Year, commencing with the Fiscal Year immediately following the Base Year, exceeds Tenant's Share of the amount of Building Allocated Operating Expenses applicable to the Base Year, Tenant shall pay as Additional Rent to Landlord an amount equal to that excess (the "Excess") in the manner stated in subparagraphs 5.3.2(b) and (c) below.

(b) Statement of Estimated Operating Expenses and Payment by Tenant. On or before the last day of the Fiscal Year in which the Commencement Date occurs and for each Fiscal Year thereafter, Landlord shall endeavor to deliver to Tenant an estimate statement (the "Estimate Statement") of Additional Rent to be due by Tenant for the forthcoming Fiscal Year. The Estimate Statement will be based on good faith estimates, reasonably determined, and will set forth in reasonable detail the calculation of estimated expenses and Additional Rent. Thereafter, unless Landlord delivers to Tenant a revision of the Estimate Statement, Tenant shall pay to Landlord monthly, coincident with Tenant's payment of Base Rent, an amount equal to the estimated Additional Rent set forth on the Estimate Statement for such Fiscal Year divided by twelve (12) months. On no more than two occasions during any Fiscal Year, Landlord may estimate and re-estimate the Additional Rent to be due by Tenant for that Fiscal Year and deliver a copy of the revised Estimate Statement to Tenant. The revised Estimate Statement will be based on good faith estimates, reasonably determined, and will set forth in reasonable detail the calculation of estimated expenses and Additional Rent. Thereafter, the monthly installments of Additional Rent payable by Tenant shall be appropriately adjusted in accordance with the revised Estimate Statement so that, by the end of any Fiscal Year, Tenant shall have paid all of the Additional Rent as estimated by Landlord on the revised Estimate Statement. Landlord's failure to furnish the Estimate Statement for any Fiscal Year in a timely manner shall not preclude Landlord from enforcing its rights to collect any Additional Rent.

(c) Statement of Actual Operating Expenses and Payment by Tenant. Landlord shall endeavor to give to Tenant as soon as available following the end of each Fiscal Year, but in no event later than November 1, a statement (the "Statement of Actual Operating Expenses") stating the Building Allocated Operating Expenses incurred or accrued for that preceding Fiscal Year and indicating the amount, if any, of any Excess due to Landlord or overpayment by Tenant. Landlord's Statement of Actual Operating Expenses will show in reasonable detail the amount and computation of Building Allocated Operating Expenses for the applicable Fiscal Year, a statement as to any Building Allocated Operating Expense which is not final and the amount of Tenant's obligations hereunder and application of Tenant's estimated payments. Except for Building Allocated Operating Expense items identified by Landlord as not

being final or adjustments to Building Allocated Operating Expense items not reasonably foreseeable by Landlord, no adjustment will be made by Landlord to the Statement of Actual Operating Expenses for any Fiscal Year subsequent to November 1 following the end of the Fiscal Year to which the Statement of Actual Operating Expenses relates. On receipt of the Statement of Actual Operating Expenses for each Fiscal Year for which an Excess exists, Tenant shall pay, with its next installment of Base Rent due, the full amount of the Excess, less the estimated amounts (if any) paid during the Fiscal Year pursuant to an Estimate Statement (as defined in subparagraph 5.3.2(b) above). In the event there is an overpayment of Additional Rent set forth on a Statement of Actual Operating Expenses for any Fiscal Year, the amount of overpayment shall be credited against payments of Additional Rent as they become due. If it is determined that there is an overpayment of Additional Rent by Tenant for any fiscal year after the expiration of the term of this Lease, such overpayment shall be promptly refunded to Tenant. Landlord's failure to furnish the Statement of Actual Operating Expenses for any Fiscal Year in a timely manner shall not prejudice Landlord from enforcing its rights hereunder. Even if the Term is expired and Tenant has vacated the Premises, if an Excess exists when final determination is made of Tenant's Share of Building Allocated Operating Expenses for the Fiscal Year in which the Lease terminates, Tenant shall promptly pay to Landlord the amount calculated under this subparagraph (c). Provisions of this subparagraph (c) shall survive the expiration or earlier termination of the Term.

5.4 **Operating Expenses** shall mean all costs and expenses which Landlord pays or accrues by virtue of the ownership, use, management, leasing, maintenance, service, operation, insurance or condition of the Land and all improvements thereon, including, without limitation, the Building and Parking Facility, during a particular Fiscal Year or portion thereof as determined by Landlord or its accountant in accordance with standard real estate accounting practices consistently applied, subject to the exclusions contained in Section 5.4.2(a) below.

5.4.1 Examples. "Operating Expenses" shall include, but shall not be limited to, the following to the extent they relate to the Complex or are chargeable to the Complex in connection with the operation and maintenance of the Cottonwood Corporate Center generally:

(a) all Impositions and other governmental charges;

(b) all insurance premiums charged for policies obtained by Landlord for the Land, Building and Parking Facility, which may include without limitation, at Landlord's election, (i) fire and extended coverage insurance, including earthquake, windstorm, hail, explosion, riot, strike, civil commotion, aircraft, vehicle and smoke insurance, (ii) public liability and property damage insurance, (iii) elevator insurance, (iv) workers' compensation insurance for the employees covered by clause (h), (v) boiler, machinery, sprinkler, water damage, and legal liability insurance, (vi) rental loss insurance, and (vii) such other insurance as Landlord considers reasonably necessary in the operation of the Complex;

(c) all deductible amounts incurred in any Fiscal Year relating to an insurable loss;

(d) all maintenance, repair, replacement, restoration and painting costs, including, without limitation, the cost of operating, managing, maintaining and repairing the following systems: utility, mechanical, sanitary, drainage, escalator and elevator;

(e) all janitorial, snow removal, custodial, cleaning, washing, landscaping, landscape maintenance, access systems, trash removal and pest control costs;

(f) all security costs;

(g) all electrical, energy monitoring, water, water treatment, gas, sewer, telephone and other utility and utility-related charges;

(h) all wages, salaries, salary burdens, employee benefits, payroll taxes, Social Security and insurance for all persons engaged by Landlord or an Affiliate of Landlord in connection with the Complex;

(i) all costs of leasing or purchasing supplies, tools, equipment and materials;

(j) all fees and assessments of the Cottonwood Corporate Center park applicable to the Complex;

(k) the cost of licenses, certificates, permits and inspections;

(l) the cost of contesting the validity or applicability of any governmental enactments that may affect the Operating Expenses;

(m) the cost of Parking Facility maintenance, repair and restoration, including, without limitation, resurfacing, repainting, restriping and cleaning;

(n) all fees and other charges paid under all maintenance and service agreements, including but not limited to window cleaning, elevator and HVAC maintenance;

(o) All reasonable and customary fees, charges, management fees (or amounts in lieu of such fees), consulting fees, legal fees and accounting fees of all persons engaged by Landlord (exclusive of legal fees with respect to disputes with individual tenants, negotiations of tenant leases, or with respect to ownership rather than operation of the Complex), together with all other associated costs or other charges reasonably incurred by Landlord in connection with the management office and the operation, management, maintenance and repair of the Complex;

(p) all costs of monitoring services, including, without limitation, any monitoring or control devices used by Landlord in regulating the Parking Facility;

(q) amortization of the cost of acquiring, financing and installing capital items which are intended to reduce (or avoid increases in) operating expenses or which are required by a governmental authority subsequent to the Commencement Date of this

Lease. Such costs shall be amortized over the reasonable life of the items in accordance with standard real estate accounting practices consistently applied, but not beyond the reasonable life of the Building; and

(r) any other costs or expenses reasonably incurred by Landlord under this Lease which are not otherwise reimbursed directly by Tenants.

5.4.2 Adjustments. Operating Expenses shall be adjusted as follows:

(a) Exclusions. "Operating Expenses" shall not include (i) expenditures classified as capital expenditures for federal income tax purposes except as set forth in clause 5.4.1(r), (ii) costs for which Landlord is entitled to specific reimbursement by Tenant, by any other tenant of the Building or by any other third party, (iii) allowances or other amounts specified in the Work Letter for expenses incurred by Landlord for improvements to the Premises, (iv) leasing commissions, and all noncash expenses (including depreciation), except for the amortized costs specified in clause 5.4.1(r), (v) land or ground rent, if applicable, and (vi) debt service on any indebtedness secured by the Complex (except debt service on indebtedness to purchase or pay for items specified as permissible "Operating Expenses"), (vii) the excess cost of any work or service performed for or facilities furnished to any tenant of the Building to a substantially greater extent or in a manner materially more favorable to such tenant than that performed for or furnished to Tenant hereunder; (viii) sums which constitute insured repairs or other work necessitated by fire or other casualty; (ix) sums incurred for the alteration or renovation of vacant or vacated space in the Building; (x) expenditures paid to a related corporation, entity or persons which are in excess of the amount which would be paid in the absence of such relationship; (xi) expenditures resulting from the relocation or moving of tenants in the Building to another location within the Building; (xii) depreciation costs; (xiii) any income, franchise or corporate tax, any leasehold taxes on other tenants' personal property, sales, capital levy, capital stock, excess profits, transfer, revenue, or any other tax, assessment or charge upon or measured by rent payable to Landlord; and (xiv) interest, penalties or other costs arising out of Landlord's failure to make timely payment of any of its monetary obligations under this Lease, including, without limitation, Landlord's failure to make timely payment of any Impositions or any other item that is included in Operating Expenses. Operating Expenses shall not exceed the reasonable, customary and ordinary cost for such items. There shall be no duplication of costs or reimbursements.

(b) Gross-Up Adjustments. If the occupancy of the Building or any other buildings in the Complex during any part of any Fiscal Year (including the Base Year) is less than ninety-five percent (95%), Landlord shall make an appropriate adjustment to the variable components of the Operating Expenses for that Fiscal Year, as reasonably determined by Landlord using sound accounting and management principles, to determine the amount of Operating Expenses that would have been incurred had the Building or such other buildings in the Complex been ninety-five percent (95%) occupied. This amount shall be considered to have been the amount of Operating Expenses for that Fiscal Year. Landlord has attached hereto as Exhibit G a hypothetical gross-up calculation, which hypothetical gross-up calculation is for illustration purposes only and shall not be binding in any way.

(c) Allocation of Operating Expenses. The parties acknowledge that the Building is a part of a multi-building project, and that the costs and expenses incurred in connection with the Complex (i.e., the Operating Expenses) shall be shared between the tenants of the Building and the tenants of the other buildings of the Complex. Accordingly, as set forth above, Operating Expenses are determined annually for the Complex as a whole, and a portion of the Operating Expenses, which portion shall be determined by Landlord on an equitable basis, shall be allocated to the tenants of the Building (as opposed to the tenants of such other buildings), and such portion so allocated shall be the amount of Operating Expenses payable with respect to the Building upon which Tenant's Share shall be calculated. Such portion of the Operating Expenses allocated to the tenants of the Building shall include all Operating Expenses which are attributable solely to the Building, and an equitable portion of the Operating Expenses attributable to the Complex as a whole.

(d) No Profit. Landlord hereby agrees that in calculating Operating Expenses: (a) Landlord will not collect or be entitled to collect Operating Expenses from all of its tenants in an amount which is in excess of one hundred percent (100%) of the Operating Expenses actually paid or incurred by Landlord in connection with the Building Complex; and (b) Landlord shall make no profit from Landlord’s collections of Operating Expenses.

5.4.3 Landlord's Books and Records. If Tenant disputes the amount of the Additional Rent due hereunder, Tenant may designate, within sixty (60) days after receipt of the Statement of Actual Operating Expenses, an independent certified public accountant or qualified third-party management company to inspect Landlord's records, Tenant is not entitled to request that inspection, however, if Tenant is then in default under this Lease. The accountant must be a member of a nationally recognized accounting firm and must not charge a fee based on the amount of Additional Rent that the accountant is able to save Tenant by the inspection. Any inspection must be conducted in Landlord's offices at a reasonable time or times. If, after such an inspection, Tenant still disputes the Additional Rent, Landlord and Tenant shall each designate an independent certified public accountant, which shall in turn jointly select a third independent certified public accountant (the "Third CPA"). A certification of the proper amount shall be made, at Tenant's sole expense, by the Third CPA. That certification shall be final and conclusive. If as a result of such audit and certification, it is determined that Tenant was overcharged by more than six percent (6%) during any period covered by such audit and certification, then Landlord will pay the costs and expenses of such audit.

5.5 **Parking Charge**. Tenant shall throughout the Term, lease from Landlord the number of unassigned and assigned automobile parking spaces, at such prices per month, as stated in Section "F" of the Summary of Basic Lease Information. Such monthly parking charges shall be considered Additional Rent and shall be due and payable without notice or demand, on or before the first day of each calendar month. Landlord shall have the right from time to time during the Term, to increase the monthly parking charges for assigned and unassigned parking spaces to the then prevailing market rate. Landlord shall also have the right to establish such reasonable rules and regulations as may be deemed desirable, at Landlord's reasonable discretion, for the proper and efficient operation and maintenance of said Parking Facility. Such rules and regulations may include, without limitation, (i) restrictions in the hours during which the Parking Facility shall be open for use, (ii) subject to the provisions of this

paragraph 5.5 above, the establishment of charges for parking therein, and (iii) the use of parking gates, cards, permits and other control devices to regulate the use of the parking areas. The rights of Tenant and its employees, customers, service suppliers and invitees to use the Parking Facility shall, to the extent such rules and regulations are not inconsistent with the other terms of this Lease, at all times be subject to (a) Landlord's right to establish reasonable rules and regulations applicable to such use and to exclude any person therefrom who is not authorized to use the same or who violates such rules and regulations; (b) the rights of Landlord and other tenants in the Building to use the same in common with Tenant; (c) other than with respect to Tenant's assigned parking spaces, the availability of parking spaces in said Parking Facility; and (d) Landlord's right to change the configuration of the parking areas and any unassigned parking spaces as shall be determined at Landlord's reasonable discretion. Tenant agrees to limit its use of the Parking Facility to the number and type of parking spaces specified in this paragraph above. Notwithstanding the foregoing, nothing contained herein shall be deemed to impose liability upon Landlord for personal injury or theft, for damage to any motor vehicle, or for loss of property from within any motor vehicle, which is suffered by Tenant or any of its employees, customers, service suppliers or other invitees in connection with their use of the Parking Facility. Tenant understands and agrees that, while the Parking Facility will be open to Tenant on a 24-hour basis, other than spaces that are leased to Tenant and other tenants, all parking spaces in the parking area may be leased to members of the general public between the hours of 6:30 p.m. through 7:00 a.m. Monday through Saturday morning, after 1:30 p.m. on Saturday, and all day on Sunday.

5.6 **Payment of Rent**. Except as otherwise expressly provided in this Lease, all Base Rent and Additional Rent shall be due in advance monthly installments on the first day of each calendar month during the Term. Rent shall be paid to Landlord at its address recited in Section 27.7, or to such other person or at such other address in the United States as Landlord may from time to time designate in writing. Rent shall be paid without notice, demand, abatement, deduction or offset in legal tender of the United States of America. The Base Rent for the first full calendar month of the Term shall be paid upon execution by Tenant of this Lease (and if the condition precedent in Section 3.1 is not satisfied, then Landlord shall return such amount to Tenant within thirty (30) days thereafter). In addition, if the Term commences or ends on other than the first or the last day of a calendar month, the Base Rent for the partial month shall be prorated on the basis of the number of days during the applicable month and paid on or before the Commencement Date. If the Term commences or ends on other than the first or the last day of a Fiscal Year, the Additional Rent for the partial Fiscal Year calculated as provided in paragraph 5.3 above shall be prorated on the basis of the number of days during the applicable Fiscal Year. All payments received by Landlord from Tenant shall be applied to the oldest payment obligation owed by Tenant to Landlord. No designation by Tenant, either in a separate writing or on a check or money order, shall modify this clause or have any force or effect. The Rent to be paid by Tenant or any Transferee hereunder shall not be based, in whole or in part, on the income or profits derived from the lease, use or occupancy of the Premises. In the event Landlord's Mortgagee succeeds to the Landlord's interests under this Lease and determines that all or any portion of the Rent payable hereunder is or may be deemed to be unrelated business income within the meaning of the United States Internal Revenue Code or regulations issued thereunder, Landlord's Mortgagee may elect unilaterally to amend the calculation of Rent such that none of the Rent payable under this Lease will constitute unrelated business income;

provided, however, that any such amendment shall not increase Tenant's payment obligations or other liabilities, or reduce the obligations of Landlord, under this Lease.

5.7 **Delinquent Payments and Handling Charge**. All Base Rent and Additional Rent hereunder shall bear interest from the date due until the date paid at the rate of interest specified in Section 27.13. In addition, if any Base Rent, Additional Rent or other payments required of Tenant hereunder are not received by Landlord when due on more than one (1) occasion in any Lease Year, Tenant shall pay to Landlord a late charge of three percent (3%) of the delinquent payment to reimburse Landlord for its costs and inconvenience incurred as a consequence of Tenant's delinquency (other than interest, attorneys' fees and costs). The parties agree that this late charge represents a reasonable estimate of the expenses that Landlord will incur because of any late payment (other than interest, attorneys' fees and costs). Landlord's acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the rights and remedies available to Landlord under this Lease. Tenant shall pay the late charge as Additional Rent with the next installment of Additional Rent. In no event, however, shall the charges permitted under this Section 5.7 or elsewhere in this Lease, to the extent the same are considered to be interest under applicable law, exceed the maximum rate of interest allowable under applicable law. If any two noncash payments made by Tenant are not paid by the bank or other institution on which they are drawn, Landlord shall have the right, exercised by notice to Tenant, to require that Tenant make all future payments by certified funds or cashier's check.

5.8 **Security Deposit**. Concurrently upon Tenant's execution of this Lease, Tenant shall deposit with Landlord the Security Deposit, stated in Section "E" of the Basic Lease Information, as security for the faithful performance by Tenant under this Lease. The Security Deposit shall be returned (without interest) to Tenant after the expiration of the Term, or sooner termination of this Lease (including without limitation, the termination of this Lease as a result of the failure of the condition precedent set forth in Section 3.1 above) and delivery of possession of the Premises to Landlord in accordance with Section 26 if, at such time, Tenant is not in default under this Lease. If Landlord's interest in this Lease is conveyed, transferred or assigned, Landlord shall transfer or credit the Security Deposit to Landlord's successor in interest, and Landlord shall be released from any liability for the return of the Security Deposit. Landlord may intermingle the Security Deposit with Landlord's own funds, and shall not be deemed to be a trustee of the Security Deposit. If, during the Term, Tenant fails to timely pay or perform any obligation under this Lease, Landlord may, prior to, concurrently with or subsequent to exercising any other right or remedy, use, apply or retain all or any part of the Security Deposit for the payment of any monetary obligation due under this Lease, or to compensate Landlord for any other expense, loss or damage which Landlord may incur by reason of Tenant's failure, including any damage or deficiency in the reletting of the Premises. If, during the Term, all or any portion of the Security Deposit is so used, applied or retained, Tenant shall promptly deposit with Landlord cash in an amount sufficient to restore the Security Deposit to the original amount. Landlord may withhold the Security Deposit after the expiration of the Term or sooner termination of this Lease until Tenant has paid in full Tenant's Operating Expenses for the Fiscal Year in which such expiration or sooner termination occurs and all other amounts payable under this Lease. The Security Deposit is not a limitation on Landlord's damages or other rights under this Lease, a payment of liquidated damages or prepaid Rent, and shall not be applied by Tenant to the Rent for the last (or any) month of the Term, or to any other amount due under this Lease.

If this Lease is terminated due to any default of Tenant, any portion of the Security Deposit remaining at the time of such termination shall immediately inure to the benefit of Landlord as partial compensation for the costs and expenses incurred by Landlord in connection with this Lease, and shall be in addition to any other damages to which Landlord is otherwise entitled.

5.9 **Holding Over**. Any holding over by Tenant in the possession of the Premises, or any portion thereof, after the expiration of the Term, with or without the consent of Landlord, shall require Tenant to pay one hundred fifty percent (150%) of the Base Rent and Additional Rent herein specified for the last month of the Term (prorated on a monthly basis), unless Landlord shall specify a lesser amount for Rent in its sole discretion. If Tenant holds over with Landlord's consent, such occupancy shall be deemed a month-to-month tenancy and such tenancy shall otherwise be on the terms and conditions herein specified in this Lease as far as applicable. Notwithstanding the foregoing provisions or the acceptance by Landlord of any payment by Tenant, any holding over without Landlord's consent shall constitute a default by Tenant and shall entitle Landlord to pursue all remedies provided in this Lease, or otherwise, and Tenant shall be liable for any and all direct or consequential damages or losses of Landlord resulting from Tenant's holding over without Landlord's consent.

6. CONSTRUCTION OF IMPROVEMENTS.

6.1 **General**. Subject to events of Force Majeure, Landlord and Tenant agree that Landlord shall, at Landlord's cost, construct, install, furnish, perform and supply the Tenant Improvements in accordance with the parties' respective payment and other obligations as specified in the Work Letter Agreement ("Work Letter Agreement") attached hereto as Exhibit D and incorporated herein by this reference. The Tenant Improvements shall meet or exceed the Building Standard Tenant Improvements (as defined and specified in the Work Letter Agreement).

6.2 **Access by Tenant Prior to Commencement of Term**. Provided that Tenant obtains and delivers to Landlord the certificates or policies of insurance called for in Section 17.1, Landlord, in its sole discretion, may permit Tenant and its employees, agents, contractors and suppliers to enter the Premises before the Commencement Date (and such entry alone shall not constitute Tenant's taking possession of the Premises for the purpose of Section 6.3(c) below), to perform certain work on the Premises on behalf of Tenant not contrary to the provisions of the Work Letter Agreement. Tenant and each other person or firm who or which enters the Premises before the Commencement Date shall conduct itself so as to not interfere with Landlord or other occupants of the Building. Landlord may withdraw any permission granted under this Section 6.2 upon twenty-four (24) hours' notice to Tenant if Landlord, in its sole discretion, determines that any such interference has been or may be caused. Any prior entry shall be under all of the terms of this Lease and the Work Letter Agreement (other than the obligation to pay Base Rent and Additional Rent) and at Tenant's sole risk. Tenant hereby releases and agrees to indemnify Landlord and Landlord's contractors, agents, employees and representatives from and against any and all personal injury, death or property damage (including damage to any personal property which Tenant may bring into, or any work which Tenant may perform in, the Premises) which may occur in or about the Complex in connection with or as the result of said entry by Tenant or its employees, agents, contractors and suppliers.

6.3 **Commencement Date; Adjustments to Commencement Date**. For purposes of this Lease, the "Commencement Date" shall mean the earliest to occur of the following events (the "Lease Commencement Events"): (a) the date of Substantial Completion (as defined in the Work Letter Agreement) of the Premises; or (b) the date on which Landlord would have Substantially Completed the Premises and tendered possession of the Premises to Tenant but for Tenant Delays (as defined in the Work Letter Agreement); or (c) the date on which Tenant commences business operations in the Premises. Upon the occurrence of the Commencement Date, the parties will execute and deliver a certificate in the form of Exhibit F attached hereto stating and acknowledging the Commencement Date. Landlord shall not be subject to any liability, including, without limitation, lost profits or incidental or consequential damages for any delay or inability to deliver possession of the Premises to the Tenant. Such a delay or failure shall not affect the validity of this Lease or the obligations of the Tenant hereunder, other than the postponement of the Term until the Commencement Date occurs.

7. **SERVICES TO BE FURNISHED BY LANDLORD**.

7.1 **General**. Subject to applicable Legal Requirements, governmental standards for energy conservation, and Tenant's performance of its obligations hereunder, Landlord shall use its best commercially reasonable efforts to furnish the following services:

(a) Subject to the charges provided in Section-7.4 below, HVAC to the Premises during Building Operating Hours, at such temperatures and in such amounts as are reasonably suitable and standard [thus excluding air conditioning or heating for electronic data processing or other specialized equipment or specialized (nonstandard) Tenant requirements);

(b) hot and cold water at those points of supply common to all floors for lavatory and drinking purposes only;

(c) janitorial service five (5) days per week;

(d) periodic window washing in and about the Building and the Premises, anticipated to be accomplished approximately every 3 or 4 months for outside windows and every 2 or 3 months for inside windows;

(e) elevator service, if necessary, to provide access to and egress from the Premises twenty-four hours per day, seven days per week;

(f) electric current sufficient for lighting the Premises and electric current twenty-four hours per day, seven days per week for normal office machines and other machines of low electrical consumption of not more than six (6) watts per square foot of Rentable Area of the Premises available for Tenant's use;

(g) replacement of fluorescent lamps in Building Standard light fixtures installed by Landlord and of incandescent bulbs or fluorescent lamps in all public rest rooms, stairwells and other Common Areas in the Building; and

If any of the services described above or elsewhere in this Lease are interrupted, Landlord shall promptly restore the same; provided, however, if as a result of any interruption of

services the Premises will be uninhabitable or unusable by Tenant for five (5) consecutive business days, then Base Rent and Additional Rent shall be abated to the extent to which such condition interferes with Tenant's use of the Premises commencing on the first day of such condition and continuing until such condition is corrected. However, neither the interruption nor cessation of such services, nor the failure of Landlord to restore same, shall render Landlord liable for damages to person or property, or be construed as an eviction of Tenant, or relieve Tenant from fulfilling any of its other obligations hereunder.

If not previously installed, Landlord may cause an electric and/or water meter(s) to be installed in the Premises of the Tenant in order to measure the amount of electricity and/or water consumed for any such use, and the cost of such meter(s) shall be paid promptly by Tenant.

Certain security measures (both by electronic equipment and personnel) may be provided by Landlord in connection with the Building. However, Tenant hereby acknowledges that any such security is intended to be solely for the benefit of the Landlord and protecting its property, and while certain incidental benefits may accrue to the Tenant therefrom, any such security is not for the purpose of protecting either the property of Tenant or the safety of its employees, agents or invitees. By providing any such security, Landlord assumes no obligation to Tenant and shall have no liability arising therefrom.

7.2 **Keys and/or Access Cards**. Landlord shall furnish Tenant, at Landlord's expense, with up to twelve (12) keys and access cards, and at Tenant's expense, with such additional keys and access cards as Tenant may request, to unlock or allow access to the Building and each corridor door entering the Premises. Tenant shall not install, or permit to be installed, any additional lock on any door into or in the Premises or make, or permit to be made, any duplicates of keys or access cards to the Premises without Landlord's prior consent. Landlord shall be entitled at all times to possession of a duplicate of all keys and access cards to all doors to or inside of the Premises. All keys and access cards referred to in this Section 7.2 shall remain the property of the Landlord. Upon the expiration or termination of the Term, Tenant shall surrender all such keys and access cards to Landlord and shall deliver to Landlord the combination to all locks on all safes, cabinets and vaults which will remain in the Premises. Landlord shall be entitled to install, operate and maintain a card reader and after-hours access card system, security systems and other control devices in or about the Premises and the Complex which regulate entry into the Building (or portions thereof) and monitor, by closed circuit television or otherwise, all persons leaving or entering the Complex, the Building and the Premises.

7.3 **Tenant Identity, Signs and Other Matters**. Landlord shall, at Landlord's cost, provide and install, in Building Standard graphics, letters or numerals, one (1) name sign identifying Tenant's name (or such other name as designated by Tenant and approved by Landlord, in its reasonable discretion) and suite number adjacent to Tenant's entry door at one location per floor of the Building occupied by Tenant. Tenant's name, as set forth on the first page of this Lease, or as otherwise provided by Tenant in writing upon execution of this Lease, shall also be placed in the Building Directory located on the main level of the Building. Any subsequent modification to the listing of Tenant's name sign in the Building Directory shall be at Tenant's cost. Unless required by law, without Landlord's prior written consent, no other signs,

numerals, letters, graphics, symbols or marks identifying Tenant shall be placed on the exterior, or in the interior if they are visible from the exterior, of the Premises.

Unless required by law, Tenant shall not place or suffer to be placed on any exterior door, wall or window of the Premises, on any part of the inside of the Premises which is visible from outside of the Premises, or elsewhere on the Complex, any sign, decoration, notice, logo, picture, lettering, attachment, advertising matter or other thing of any kind, without first obtaining Landlord's prior written approval, which Landlord may, in its discretion, grant or withhold. Landlord may, at Tenant's cost, and without notice or liability to Tenant, enter the Premises and remove any item erected in violation of this Section. Landlord may establish rules and regulations governing the size, type and design of all such items and Tenant shall abide by such rules and regulations.

7.4 **Charges**. Tenant shall pay to Landlord monthly as billed, as Additional Rent, such charges as may be separately metered or as Landlord may compute for (a) any utility services utilized by Tenant for computers, data processing equipment or other electrical equipment in excess of that agreed to be furnished by Landlord pursuant to Section 7.1, (b) lighting installed in the Premises in excess of Building Standard lighting, (c) HVAC and other services in excess of that stated in Section 7.1(a) or provided at times other than Building Operating Hours, and (d) janitorial services required with respect to those tenant improvements in the Premises which exceed Building Standard Tenant Improvements. If Tenant wishes to use HVAC or electrical services to the Premises during hours other than Building Operating Hours, Landlord shall supply such HVAC, electrical and utility services at an hourly cost to Tenant of $18.50 per suite, as adjusted from time to time by Landlord consistent with prevailing market charges for such use. Landlord may utilize a lighting and utility occupancy sensor in order to automatically determine and control use of HVAC, electrical and other utility services. Landlord may elect to estimate the charges to be paid by Tenant under this Section 7.4 and bill such charges to Tenant monthly in advance, in which event Tenant shall promptly pay the estimated charges. When the actual charges are determined by Landlord, an appropriate cash adjustment shall be made between Landlord and Tenant to account for any underpayment or overpayment by Tenant.

7.5 **Operating Hours**. Subject to Building Rules and Regulations and such security standards as Landlord may from time to time adopt, the Building shall be open to the public during the Building Operating Hours and the Premises shall be open to Tenant during hours other than Building Operating Hours.

8. **REPAIR AND MAINTENANCE**.

8.1 **By Landlord**. Landlord shall provide the services to the Premises set forth in paragraph 7.1 above and shall maintain the Building (excepting the Premises and portions of the Building leased by persons not affiliated with Landlord) in a good, clean and operable condition, making such repairs and replacements as may be required to provide such services to the premises and to maintain the Building in such condition. This Section 8.1 shall not apply to damage resulting from a Taking (as to which Section 14 shall apply), or damage resulting from a casualty (as to which Section 15.1 shall apply), or to damage caused by the negligence or willful misconduct of Tenant or its agents, contractors, invitees and licensees for

which Tenant is otherwise responsible under this Lease. Tenant hereby waives and releases any right it may have to make repairs to the Premises or Building at Landlord's expense under any Legal Requirements now or hereafter in effect in any jurisdiction in which the Building is located.

8.2 **By Tenant**. Tenant, at Tenant's sole cost, shall maintain the nonstructural components of the Premises and every part of the Premises (including, without limitation, all floors, walls and ceilings and their coverings, doors and locks, furnishings, trade fixtures, signage, leasehold improvements, equipment and other personal property from time to time situated in or on the Premises) in good order, condition and repair, and in a clean, safe, operable, neat and sanitary condition. Tenant will not commit or allow to remain any waste or damage to any portion of the Premises. Tenant shall repair or replace, subject to Landlord's direction and supervision, any damage to the Complex caused by Tenant or Tenant's agents, contractors or invitees. If Tenant fails to make such repairs or replacements, Landlord may make the same at Tenant's cost. Such cost shall be payable to Landlord by Tenant on demand as Additional Rent. All contractors, workmen, artisans and other persons which or whom Tenant proposes to retain to perform work in the Premises (or the Complex) pursuant to this Section 8.2 or Section 11 shall be approved by Landlord, in Landlord's reasonable discretion, prior to the commencement of any such work.

9. **TAXES ON TENANT'S PROPERTY**. Tenant shall be liable for and shall pay, before they become delinquent, all taxes and assessments levied against any personal property placed by Tenant in the Premises, including any additional Impositions which may be assessed, levied, charged or imposed against Landlord or the Building by reason of non-Building Standard Items in the Premises. Tenant may withhold payments of any taxes and assessments described in this Section 9 so long as Tenant contests its obligation to pay in accordance with applicable law and the nonpayment thereof does not pose a threat of loss or seizure of the Building or any interest of Landlord therein.

10. **TRANSFER BY TENANT**.

10.1 **General**. Except as specifically provided in this Section 10.1 below, Tenant shall not directly or indirectly, voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise Transfer or hypothecate all or any part of the Premises or Tenant's leasehold estate hereunder, or permit the Premises to be occupied by anyone other than Tenant or sublet the Premises or any portion thereof without Landlord's prior written consent in Landlord's discretion (such consent not to be unreasonably withheld, conditioned or delayed), being obtained in each instance, subject to the terms and conditions contained in this paragraph. Except as provided in the penultimate sentence hereinbelow, any attempted Transfer without Landlord's consent shall be void. If Tenant desires to effect a Transfer, it shall deliver to Landlord written notice thereof in advance of the date on which Tenant proposes to make the Transfer, together with all of the terms of the proposed Transfer and the identity of the proposed Transferee. Upon request by Landlord, such notice shall contain financial information concerning the proposed Transferee and other reasonable information regarding the transaction which Landlord may specify. Landlord shall have thirty (30) days following receipt of the notice and information within which to notify Tenant in writing whether Landlord elects (a) to refuse to consent to the Transfer and to continue this Lease in full force, or (b) to consent to the proposed

Transfer. If Landlord fails to notify Tenant of its election within said thirty (30) day period, Landlord shall be deemed to have elected option (a). The consent by Landlord to a particular Transfer shall not be deemed a consent to any other Transfer. If a Transfer occurs without the prior written consent of Landlord as provided herein, Landlord may nevertheless collect rent from the Transferee and apply the net amount collected to the Rent payable hereunder, but such collection and application shall not constitute a waiver of the provisions hereof or a release of Tenant from the further performance of its obligations hereunder. Notwithstanding the foregoing, but without waiving any requirement for a Transfer contained in Section 10.2 below, Tenant shall have the right, without the prior consent of Landlord but upon at least ten (10) days' prior written notice to Landlord, to assign the Lease or sublet the whole or any part of the Premises to a corporation or entity (a "Related Entity") which: (i) is Tenant's parent organization, or (ii) is a wholly-owned subsidiary of Tenant or Tenant's parent organization, or (iii) is an organization of which Tenant or Tenant's parent owns in excess of fifty percent (50%) of the outstanding capital stock or has in excess of fifty percent (50%) ownership or control interest, or (iv) is the result of a consolidation, merger or reorganization with Tenant and/or Tenant's parent organization, or (v) is the Transferee of substantially all of Tenant's assets. In no event shall any Transfer by Tenant to a Related Entity pursuant to the immediately preceding sentence be subject to Landlord's right to receive excess Rent pursuant to Section 10.2(a) below.

10.2 **Conditions**. The following conditions shall automatically apply to each Transfer, without the necessity of same being stated or referred to in Landlord's written consent:

(a) Tenant shall execute, have acknowledged and deliver to Landlord, and cause the Transferee to execute, have acknowledged and deliver to Landlord, an instrument in form and substance acceptable to Landlord in which (i) the Transferee adopts this Lease and agrees to perform, jointly and severally with Tenant, all of the obligations of Tenant hereunder, as to the space Transferred to it, including, without limitation, the prohibition against rent based on the income or profits derived from the Premises (any purported lease to the contrary being null and void), (ii) the Transferee grants Landlord an express first and prior security interest in its personal property brought into the transferred space to secure its obligations to Landlord hereunder, (iii) Tenant subordinates to Landlord's statutory lien and security interest any liens, security interests or other rights which Tenant may claim with respect to any property of the Transferee, (iv) Tenant agrees with Landlord that, if the rent or other consideration due by the Transferee exceeds the Rent for the transferred space, then Tenant shall pay Landlord as Additional Rent hereunder ninety percent (90%) of all such excess Rent and other consideration, net of reasonable leasing commissions and tenant improvement costs directly required in connection with such Transfer actually paid by Tenant, promptly upon Tenant's receipt thereof, (v) Tenant and the Transferee agree to provide to Landlord, at their expense, direct access from a public corridor in the Building to the transferred space, (vi) the Transferee agrees to use and occupy the Transferred space solely for the purpose specified in Section 4 and otherwise in accordance with this Lease, and (vii) Tenant acknowledges that, notwithstanding the Transfer, Tenant remains primarily liable for the performance of all the obligations of Tenant hereunder (including, without limitation, the obligation to pay all Rent), and Landlord shall be permitted to enforce this Lease against Tenant or the Transferee, or all of them, without prior demand upon or proceeding in any way against any other persons; and

(b) Tenant shall deliver to Landlord a counterpart of all instruments relative to the Transfer executed by all parties to such transaction (except Landlord).

(c) If Landlord to consents to a proposed Transfer, Tenant shall pay to Landlord, Landlord's reasonable costs, including, without limitation, reasonable attorneys' fees, incurred in connection with such proposal.

10.3 **Liens**. Without in any way limiting the generality of the foregoing, Tenant shall not grant, place or suffer, or permit to be granted, placed or suffered, against the Complex or any portion thereof, any lien, security interest, pledge, conditional sale contract, claim, charge or encumbrance (whether constitutional, statutory, contractual or otherwise) and, if any of the aforesaid does arise or is asserted, Tenant will, upon thirty (30) days notice of the filing of any such lien and at Tenant's expense, cause the same to be released of record by payment of money or posting of a proper bond.

10.4 **Assignments in Bankruptcy**. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. § 101 et seq., (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the Estate of Tenant within the meaning of the Bankruptcy Code.

11. **ALTERATIONS**. Tenant shall not make (or permit to be made) any alteration to the Premises (including, without limitation, the attachment of any fixture or equipment) unless such alteration (a) equals or exceeds the Building Standard and utilizes only new and first-grade materials, (b) is in conformity with all Legal Requirements, and is made after obtaining any required permits and licenses, (c) is made with the prior written consent of Landlord not to be unreasonably withheld, conditioned or delayed, (d) is made pursuant to plans and specifications approved in writing in advance by Landlord, (e) is made after Tenant has provided to Landlord such reasonable indemnification and/or bonds requested by Landlord, including, without limitation, a performance and completion bond in such form and amount as may be satisfactory to Landlord to protect against claims and liens for labor performed and materials furnished, and to insure the completion of any alteration, (f) is carried out by persons approved in writing by Landlord who, if required by Landlord, deliver to Landlord before commencement of their work proof of such insurance coverage as Landlord may require, with Landlord named as an additional insured, and (g) is done only at such time and in such manner as to not disturb the Landlord or other tenants in the Building. All such alterations, improvements and additions (including all articles attached to the floor, wall or ceiling of the Premises) shall become the property of Landlord and shall, at Landlord's election, be (i) surrendered with the Premises as part thereof at the termination or expiration of the Term, without any payment, reimbursement or compensation therefor, or (ii) removed by Tenant, at Tenant's expense, with all damage caused by such removal repaired by Tenant. Tenant may remove Tenant's trade fixtures, office supplies, movable office furniture and equipment not attached to the Building, provided such removal is made prior to the expiration of the Term, no uncured Event of Default has occurred and Tenant promptly repairs all damage caused by such removal. Tenant shall indemnify, defend and hold harmless Landlord from and against all liens, claims, damages, losses, liabilities and expenses, including attorneys' fees, which may arise out of, or be connected in any way with, any such change, addition or

improvement. Within twenty (20) days following the imposition of any lien resulting from any such change, addition or improvement, Tenant shall cause such lien to be released of record by payment of money or posting of a proper bond.

12. **PROHIBITED USES**.

12.1 **General**. Tenant will not (a) use, occupy or permit the use or occupancy of the Complex or Premises for any purpose or in any manner which is violative of any Legal Requirement, or contrary to Building Rules and Regulations, or dangerous to life or property, or a public or private nuisance, or disrupt, obstruct or unreasonably annoy the owners or any other tenant of the Building or adjacent buildings, (b) keep or permit to be kept any substance in, or conduct or permit to be conducted any operation from, the Premises which emits offensive odors or conditions into other portions of the Building, or makes undue noise or creates undue vibrations, (c) commit or permit to remain any waste to the Complex or Premises, (d) install or permit to remain any improvements to the Complex or Premises, window coverings or other items (other than window coverings which have first been approved by Landlord) which are visible from the outside of the Premises, or exceed the structural loads of floors or walls of the Building, or adversely affect the mechanical, plumbing or electrical systems of the Building, or affect the structural integrity of the Building in any way, (e) permit the occupancy of the Premises at any time during the Term to exceed one person per two hundred (200) square feet Rentable Area of space in the Premises, (f) violate any recorded covenants, conditions or restrictions that affect the Complex or Building, or (g) commit or permit to be committed any action or circumstance in or about the Complex or Building which would justify any insurance carrier in cancelling or increasing the premium on the fire and extended coverage insurance policy maintained by Landlord on the Complex or Building or contents, and if any increase results from any act of Tenant, then Tenant shall pay such increase promptly upon demand therefor by Landlord. Landlord represents that any certificate of occupancy issued with respect to the premises shall allow use for general business office purposes.

12.2 **Hazardous Materials**. Without limiting the foregoing, Tenant shall not cause or permit any Hazardous Material (defined below) to be brought upon, kept or used in or about the Premises or Complex by Tenant, its agents, employees, contractors or invitees, in violation of law, without the prior written consent of Landlord. Notwithstanding the foregoing, Tenant may use and store types and quantities of materials and substances which may be or contain Hazardous Materials, provided that the same are of the type and in the quantities customarily found or used in offices for use of similar businesses, including without limitation packaging materials, commercial cleaning fluids, paint and photocopier fluids. If Tenant breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Materials on the Premises or Complex caused or permitted by Tenant results in illegal contamination of the Premises or Complex, or if illegal contamination of the Premises or Complex by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises or Complex, damages for the loss or restriction on use of rentable or usable space or any amenity of the Premises or Complex, damages arising from any adverse impact on marketing of space in the Building, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or

after the Term as a result of such illegal contamination. This indemnification of Landlord includes, without limitation, the obligation to reimburse Landlord for costs incurred in connection with any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Without limiting the foregoing, if the presence of any Hazardous Material in, on or about the Premises or Complex caused by or permitted by Tenant results in any illegal contamination of the Premises or Complex, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises or Complex to the condition existing prior to the introduction of any Hazardous Material; provided, however, that Landlord's approval of such action shall first be obtained. "Hazardous Material" shall mean, in the broadest sense, any petroleum-based products, pesticides, paints, insolvents, polychlorinated, biphenyl, lead, cyanide, DDT, acids, ammonium compounds and other chemical products and any substance or material defined or designated as a hazardous or toxic, or other similar term, by any federal, state or local environmental statute, regulation or ordinance affecting the Premises or Complex presently in effect or that may be promulgated in the future, as such statutes, regulations and ordinances maybe amended from time to time. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Premises. In all events, Tenant shall indemnify Landlord in the manner elsewhere provided in this Lease from any release of hazardous materials on the Premises to the extent caused by, or resulting from the acts of, Tenant or Tenant's employees, directors, partners, shareholders, contractors, agents, invitees or representatives occurring while Tenant is in possession, or elsewhere if caused by Tenant or persons acting under Tenant. The within covenants shall survive the expiration or earlier termination of the lease term.

12.3 **Overstandard Tenant Use**. Tenant shall not, without Landlord's prior written consent, use heat-generating machines, other than standard equipment or lighting, or machines other than normal fractional horsepower office machines, in the Premises that may affect the temperature otherwise maintained by the air conditioning system or increase the water normally furnished to the Premises by Landlord.

13. **ACCESS BY LANDLORD**. Upon at least twenty-four (24) hours' prior notice (except in case of emergency or to perform janitorial services), Landlord, its employees, contractors, agents and representatives, shall have the right (and Landlord, for itself and such persons and firms, hereby reserves the right) to enter the Premises at reasonable hours (except in case of emergency or to perform janitorial service) (a) to inspect, clean, maintain, repair, replace or alter the Premises or the Building, (b) to show the Premises to prospective purchasers (or, during the last twelve (12) months of the Term, to prospective tenants), (c) to determine whether Tenant is performing its obligations hereunder, or (d) for any other purpose deemed reasonable by Landlord. In an emergency, Landlord (and such persons and firms) may use any means to open any door into or in the Premises without any liability therefor. Landlord shall use reasonable efforts to minimize interference with Tenant's use of the Premises and to comply with any reasonable security policies and procedures of Tenant which have been delivered by Tenant to Landlord prior to the date of such entry. Entry into the Premises by Landlord or any other person or firm named in the first sentence of this Section 13 for any purpose permitted herein shall not constitute a trespass or an eviction (constructive or otherwise), or entitle Tenant to any abatement or reduction of Rent, or constitute grounds for any claim (and Tenant hereby waives

any claim) against Landlord for damages for any injury to or interference with Tenant's business, for loss of occupancy or quiet enjoyment, or for consequential damages.

14. **CONDEMNATION**. If all of the Complex is Taken, or if so much of the Complex is Taken that, in Landlord's opinion, the remainder cannot be restored to an economically viable, quality office building, or if the awards payable to Landlord as a result of any Taking are, in Landlord's opinion, inadequate to restore the remainder to an economically viable, quality office building, Landlord may, at its election, exercisable by the giving of written notice to Tenant within sixty (60) days after the date of the Taking, terminate this Lease as of the date of the Taking or the date Tenant is deprived of possession of the Premises (whichever is later) and Rent shall be apportioned as of the date of such termination. Tenant may, at its election, exercisable by giving sixty (60) days' written notice to Landlord, terminate this Lease in the event a substantial (greater than 50%) portion of the Premises is taken rendering the Premises inadequate for its continued use and occupancy by Tenant. If this Lease is not terminated as a result of a Taking, Landlord shall restore the Premises remaining after the Taking to a Building Standard condition. During the period of restoration, Base Rent shall be abated to the extent the Premises are rendered untenantable and, after the period of restoration, Base Rent and Tenant's Share shall be reduced in the proportion that the area of the Premises Taken or otherwise rendered untenantable bears to the area of the Premises just prior to the Taking. All awards, proceeds, compensation or other payments from or with respect to any Taking of the Complex or any portion thereof shall belong to Landlord, and Tenant hereby assigns to Landlord all of its right, title, interest and claim to same. Whether or not this Lease is terminated as a consequence of a Taking, all damages or compensation awarded for a partial or total Taking, including any award for severance damage and any sums compensating for diminution in the value of or deprivation of the leasehold estate under this Lease, shall be the sole and exclusive property of Landlord. Tenant may assert a claim for and recover from the condemning authority, but not from Landlord, such compensation as may be awarded on account of Tenant's loss of business, loss of goodwill, moving and relocation expenses, and depreciation to and loss of Tenant's moveable personal property. Tenant shall have no claim against Landlord for the occurrence of any Taking, or for the termination of this Lease or a reduction in the Premises as a result of any Taking.

15. **CASUALTY**.

15.1 **General**. Tenant shall give prompt written notice to Landlord of any casualty to the Complex of which Tenant is aware and any casualty to the Premises. If (a) the Complex or the Premises are totally destroyed, or (b) if the Complex or the Premises are partially destroyed but in Landlord's opinion they cannot be restored to an economically viable, quality office building, or (c) if the insurance proceeds payable to Landlord as a result of any casualty are, in Landlord's opinion, inadequate to restore the portion remaining to an economically viable, quality office building, or (d) if the damage or destruction occurs within twelve (12) months of the expiration of the Term, or (e) Landlord's Mortgagee requires insurance proceeds be applied to pay or reduce indebtedness rather than repair the Premises, Landlord may, at its election exercisable by the giving of written notice to Tenant within sixty (60) days after the casualty, terminate this Lease as of the date of the casualty or the date Tenant is deprived of possession of the Premises (whichever is later). If this Lease is not terminated by Landlord as a result of a casualty, Landlord shall (subject to Section 15.2) restore the Premises to a Building Standard

condition. If restoration of the Premises to a Building Standard Condition is not completed, or estimated by Landlord or its agents to not be completed, within a period of one hundred twenty (120) days, Tenant may elect to terminate this Lease by providing written notice to Landlord within thirty (30) days after expiration of the one hundred twenty (120) day period, or, as applicable, within thirty (30) days after receipt by Tenant of a written estimate from Landlord of a time in excess of one hundred twenty (120) days to complete the restoration. If Tenant does not elect to terminate within this 30-day period, Tenant shall be deemed to have waived the option to terminate. During the period of restoration, Base Rent and Additional Rent shall be abated to the extent the Premises are rendered untenantable and, after the period of restoration, Base Rent and Tenant's Share shall be reduced in the proportion that the area of the Premises remaining tenantable after the casualty bears to the area of the Premises just prior to the casualty. Except for abatement of Base Rent and Additional Rent, if any, Tenant shall have no claim against Landlord for any loss suffered by reason of any such damage, destruction, repair or restoration, except to the extent such loss was caused by the gross negligence or willful misconduct of Landlord, its employees, representatives or contractors; provided, however, in no event shall Landlord be liable to Tenant for any lost profits, loss of business or other consequential damages. Except to the extent caused by the gross negligence or willful misconduct of Landlord, its employees, representatives or contractors, Landlord shall not be required to repair any damage or to make any restoration or replacement of any furnishings, trade fixtures, leasehold improvements, equipment, merchandise and other personal property installed in the Premises by Tenant or at the direct or indirect expense of Tenant. If Landlord is required by this Lease or any Landlord Mortgagee to repair, or if Landlord undertakes to repair, Landlord shall use commercially reasonable efforts to have such repairs made promptly and in a manner which will not unreasonably interfere with Tenant's occupancy.

15.2 **Acts of Tenant**. Notwithstanding any provisions of this Lease to the contrary, if the Premises or the Complex are damaged or destroyed as a result of a casualty arising from the acts or omissions of Tenant, or any of Tenant's officers, directors, shareholders, partners, employees, contractors, agents, invitees or representatives, (a) Tenant's obligation to pay Rent and to perform its other obligations under this Lease shall not be abated, reduced or altered in any manner, (b) Landlord shall not be obligated to repair or restore the Premises or the Complex, and (c) subject to Section 17.2, Tenant shall be obligated, at Tenant's cost, to repair and restore the Premises or the Complex to the condition they were in just prior to the damage or destruction under the direction and supervision of, and to the satisfaction of, Landlord and any Landlord's Mortgagee.

15.3 **Last Year of Term**. If the Building or the Premises or any portion thereof is destroyed by fire or other causes at any time during the last twelve (12) months of the Term, then either Tenant or Landlord shall have the right, at the option of either party, to terminate this Lease by giving written notice to the other within sixty (60) days after the date of such destruction.

16. **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT**.

16.1 **General**. This Lease, Tenant's leasehold estate created hereby, and all of Tenant's rights, titles and interests hereunder and in and to the Premises are hereby made subject and subordinate to any Mortgage presently existing or hereafter placed upon all or any portion of

the Complex, and to any and all renewals, extensions, modifications, consolidations and replacements of any Mortgage and all advances made or hereafter to be made on the security of any Mortgage. Notwithstanding the foregoing, Landlord and Landlord's Mortgagee may, at any time upon the giving of written notice to Tenant and without any compensation or consideration being payable to Tenant, make this Lease, and the aforesaid leasehold estate and rights, titles and interests, superior to any Mortgage. In order to confirm the subordination (or, at the election of Landlord or Landlord's Mortgagee, the superiority of this Lease), upon the written request by Landlord or by Landlord's Mortgagee to Tenant, and within ten (10) days of the date of such request, and without any compensation or consideration being payable to Tenant, Tenant shall execute, have acknowledged and deliver a recordable instrument in a commercially reasonable form (which shall include non-disturbance provisions substantially as set forth therein confirming that this Lease, Tenant's leasehold estate in the Premises and all of Tenant's rights, titles and interests hereunder are subject and subordinate (or, at the election of Landlord or Landlord's Mortgagee, superior) to the Mortgage benefiting Landlord's Mortgagee. Without limiting the foregoing, upon request by Landlord's Mortgagee, the Landlord and Tenant shall execute such documents as Landlord's Mortgagee deems necessary to effect an amendment of this Lease. Tenant's failure to execute and deliver such instrument(s) as required in this Section 16 shall constitute a default under this Lease.

16.2 **Attornment**. Upon the written request of any person or party succeeding to the interest of Landlord under this Lease, Tenant shall automatically become the tenant of and attorn to such successor in interest without any change in any of the terms of this Lease. No successor in interest shall be (a) bound by any payment of Rent for more than one month in advance, except payments of security for the performance by Tenant of Tenant's obligations under this Lease, or (b) subject to any offset, defense or damages arising out of a default or any obligations of any preceding Landlord. Neither Landlord's Mortgagee nor its successor in interest shall be bound by any amendment of this Lease entered into after Tenant has been given written notice of the name and address of Landlord's Mortgagee and without the written consent of Landlord's Mortgagee or such successor in interest, not to be unreasonably withheld or delayed. Any transferee or successor-in-interest shall not be liable for any acts, omissions or defaults of Landlord that occurred before the sale or conveyance, or the return of any security deposit except for deposits actually paid to the successor or transferee. Tenant agrees to give written notice of any default by Landlord to the holder of any Mortgage. Tenant further agrees that, before it exercises any rights or remedies under the Lease, other than Rent abatement as expressly provided herein, the holder of any Mortgage or other successor-in-interest shall have the right, but not the obligation, to cure the default within the same time, if any, given to Landlord to cure the default, plus an additional thirty (30) days. The subordination, attornment and mortgagee protection clauses of this Section 16 shall be self-operative and no further instruments of subordination, attornment or mortgagee protection need be required by any Landlord's Mortgagee or successor in interest thereto. Nevertheless, upon the written request therefor by Landlord or Landlord's Mortgagee and without any compensation or consideration being payable to Tenant, Tenant agrees to execute, have acknowledged and deliver such commercially reasonable instruments as requested by Landlord or Landlord's Mortgagee to confirm the same. Tenant shall from time to time, if so requested by Landlord and if doing so will not materially and adversely affect Tenant's economic interests under this Lease, join with Landlord in amending this Lease so as to meet the needs or requirements of any lender that is considering making or that has made a loan secured by all or any portion of the Complex.

17. **INSURANCE**.

17.1 **General**. Tenant shall obtain and maintain throughout the Term the following policies of insurance:

(a) commercial general liability insurance with a combined single limit for bodily injury and property damage of not less than One Million Dollars ($1,000,000) per occurrence, including, without limitation, contractual liability coverage for the performance by Tenant of the indemnity agreements set forth in Section 18;

(b) hazard insurance with special causes of loss, including theft coverage, insuring against fire, extended coverage risks, vandalism and malicious mischief, and including boiler and sprinkler leakage coverage, in an amount equal to the full replacement cost (without deduction for depreciation) of all furnishings, trade fixtures, leasehold improvements, equipment, merchandise and other personal property from time to time situated in or on the Premises;

(c) workers' compensation insurance satisfying Tenant's obligations under the workers' compensation laws of the State of Utah; and

(d) such other policy or policies of insurance as Landlord may reasonably require or as Landlord is then generally requiring from other tenants in the Building.

Such minimum limits shall in no event limit the liability of Tenant under this Lease. Such liability insurance shall name Landlord, and all mortgagees and lessors of Landlord of which Tenant has been notified, as an additional insureds; such property insurance shall name Landlord as a loss payee as Landlord's interests may appear; and both such liability and property insurance shall be with companies acceptable to Landlord, having a rating of not less than A:XII in the most recent issue of Best's Key Rating Guide, Property-Casualty. All liability policies maintained by Tenant shall contain a provision that Landlord and any other additional insured, although named as an insured, shall nevertheless be entitled to recover under such policies for any loss sustained by Landlord and Landlord's agents and employees as a result of the acts or omissions of Tenant. Tenant shall furnish Landlord with certificates of coverage. No such policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days' prior written notice to Landlord by the insurer. All such policies shall be written as primary policies, not contributing with and not in excess of the coverage which Landlord may carry, and shall only be subject to such deductibles as may be approved in writing in advance by Landlord. Tenant shall, at least fifteen (15) days prior to the expiration of such policies, furnish Landlord with renewals of, or binders for, such policies. Landlord and Tenant waive all rights to recover against each other, against any other tenant or occupant of the Complex, and against the officers, directors, shareholders, partners, joint venturers, employees, agents, customers, invitees or business visitors of each other, or of any other tenant or occupant of the Building, for any loss or damage arising from any cause covered by any insurance carried by the waiving party, to the extent that such loss or damage is actually covered. Tenant shall cause all other occupants of the Premises claiming by, through or under Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver contained in this Section and to obtain such waiver of subrogation rights endorsements. Any Landlord's Mortgagee may, at Landlord's option, be afforded coverage

under any policy required to be secured by Tenant under this Lease by use of a mortgagee's endorsement to the policy concerned.

17.2 **Waiver of Subrogation**. Landlord and Tenant hereby waive all claims, rights of recovery and causes of action that either party or any party claiming by, through or under such party may now or hereafter have by subrogation or otherwise against the other party or against any of the other party's officers, directors, shareholders, partners or employees for any loss or damage that may occur to the Complex, the Premises, Tenant's improvements or any of the contents of any of the foregoing by reason of fire or other casualty, or by reason of any other cause except gross negligence or willful misconduct (thus including simple negligence of the parties hereto or their officers, directors, shareholders, partners or employees), that could have been insured against under the terms of (a) in the case of Landlord, the standard fire and extended coverage insurance policies available in the state where the Complex is located at the time of the casualty, and (b) in the case of Tenant, the fire and extended coverage insurance policies required to be obtained and maintained under Section 17.1; provided, however, that the waiver set forth in this Section 17.2 shall not apply to any deductibles on insurance policies carried by Landlord or to any coinsurance penalty which Landlord might sustain. Landlord and Tenant shall cause an endorsement to be issued to their respective insurance policies recognizing this waiver of subrogation.

17.3 **Landlord's Insurance**. Landlord shall obtain and maintain throughout the Term the following policies of insurance:

(a) All-risk property damage insurance on the. Building, Building Improvements and personal property owned by Landlord in the amount of the full replacement values thereof, as the values may exist from time to time; and

(b) General liability insurance covering Landlord's operations and the Building with combined single limits of not less than One Million Dollars ($1,000,000) per occurrence for bodily injury and property damage; and

(c) All policies shall be issued by reasonable insurance companies authorized to do business in the state in which the Premises are located.

18. **INDEMNITY**. Subject to paragraph 17.2, and except to the extent caused by the gross negligence or willful misconduct of Landlord, its employees, agents, representatives or contractors, Tenant agrees to indemnify, defend and hold Landlord and its officers, directors, partners and employees harmless from and against all liabilities, losses, demands, actions, expenses or claims, including reasonable attorneys' fees and court costs, for injury to or death of any person or for damages to any property or for violation of law arising out of or in any manner connected with (i) the use, occupancy or enjoyment of the Premises and Complex by Tenant or Tenant's agents, employees or contractors, or the clients and other invitees of Tenant, (ii) any breach or default in the performance of any obligation of Tenant under this Lease, and (iii) any negligent or otherwise tortious act or failure to act by Tenant or Tenant's agents, employees or contractors on or about the Premises or Complex.

Subject to paragraph 17.2 above and paragraph 19 below, and except to the extent caused by the gross negligence or willful misconduct of Tenant, its employees, representatives or contractors, Landlord agrees to indemnify, defend and hold Tenant and its officers, directors, partners and employees harmless from and against all liabilities, losses, demands, actions, expenses or claims, including reasonable attorneys' fees and court costs, for injury to or death of any person or for damages to any property or for violation of law arising out of or in any way connected with: (a) the fraud, gross negligence, or willful misconduct of Landlord in connection with the use of the Premises and Complex by Landlord or Landlord's agents, employees or contractors; and/or (b) any breach or default in the performance of Landlord's obligations under this Lease.

19. **THIRD PARTIES; ACTS OF FORCE MAJEURE; EXCULPATION**. Except to the extent caused by the gross negligence or willful misconduct of Landlord, its employees, representatives or contractors, Landlord shall have no liability to Tenant, or to Tenant's officers, directors, shareholders, partners, employees, agents, contractors or invitees, for bodily injury, death, property damage, business interruption, loss of profits, loss of trade secrets or other direct or consequential damages occasioned by (a) the acts or omissions of any other tenant or such other tenant's officers, directors, shareholders, partners, employees, agents, contractors or other invitees within the Complex, (b) Force Majeure (as defined below), (c) vandalism, theft, burglary and other criminal acts (other than those committed by Landlord and its employees), (d) water leakage, or (e) the repair, replacement, maintenance, damage, destruction or relocation of the Premises. Except to the extent an injury, loss, damage or destruction was proximately caused by Landlord's fraud, willful act or violation of law, Tenant waives all claims against Landlord arising out of injury to or death of any person or loss of, injury or damage to, or destruction of any property of Tenant. Unless otherwise specifically provided in this Lease, the remedies of Tenant for breach of this Lease by Landlord shall be limited to abatement of Rent and/or termination of this Lease in the manner set forth herein. Whenever the period of time is herein prescribed for action to be taken by Landlord or Tenant, Landlord or Tenant shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to Force Majeure, which term shall include strikes, riots, acts of God, shortages of labor or materials, war, acts or threats of terrorism, governmental approvals, laws, regulations, or restrictions, or any other cause of any kind whatsoever which is beyond the reasonable control of Landlord or Tenant. Notwithstanding the foregoing, Force Majeure shall not excuse or delay Tenant's obligation to pay Rent or Additional Rent.

20. **SECURITY INTEREST**. As security for Tenant's payment of Rent and performance of all of its other obligations under this Lease, Tenant hereby grants to Landlord a security interest in all property of Tenant now or hereafter placed in the Premises. Landlord, as secured party, shall be entitled to all of the rights, remedies and recourses afforded to a secured party under the Utah Uniform Commercial Code, which rights, remedies and recourses shall be cumulative of all other rights, remedies, recourses, liens and security interests afforded Landlord by law, equity or this Lease. Contemporaneously with the execution of this Lease, Tenant shall execute and deliver, as debtor, promptly upon request and without any compensation or consideration being payable to Tenant, such additional financing statement or statements as Landlord may request. However, Landlord may at any time file a copy of this Lease as a financing statement.

21. **CONTROL OF COMMON AREAS**. Landlord shall have the exclusive control over the Common Areas. Landlord may, from time to time, create different Common Areas, close or otherwise modify the Common Areas, and reasonably modify the Building Rules and Regulations with respect thereto; provided, however, that the use by Tenant of the Building and Premises shall not be materially adversely impacted,

22. **INTENTIONALLY DELETED**.

23. **QUIET ENJOYMENT**. Provided Tenant has performed all its obligations under this Lease, Tenant shall and may peaceably and quietly have, hold, occupy, use and enjoy the Premises during the Term subject to the provisions of this Lease. Landlord shall warrant and forever defend Tenant's right to occupancy of the Premises against the claims of any and all persons whosoever lawfully claiming the same or any part thereof, by, through or under Landlord, but not otherwise, subject to the provisions of this Lease.

24. **DEFAULT BY TENANT**.

24.1 **Events of Default**. Each of the following occurrences shall constitute an Event of Default (herein so called):

(a) the failure of Tenant to pay Base Rent or Additional Rent as and when due hereunder and the continuance of such failure for a period of five (5) days after written notice from Landlord to Tenant specifying the failure; provided, however, after Landlord has given Tenant written notice pursuant to this clause 24.1(a) on two separate occasions, Landlord shall not be required to give Tenant any further notice under this clause 24.1(a); provided, however, that the obligation of Tenant to pay a late charge or interest pursuant to this Lease shall commence as of the due date of the Rent or other monetary obligation and not on the expiration of any grace period;

(b) the failure of Tenant to perform, comply with or observe any term, condition or provision in this Lease (except as provided in Sections 24.1(a) and (c) through (g) of this Lease), and the continuance of such failure for a period of thirty (30) days after written notice from Landlord to Tenant specifying the failure, or, if reasonably required, such longer period (not to exceed 120 days) so long as Tenant timely and diligently commences and continues to completion the required cure;

(c) the (i) involuntary transfer by Tenant of Tenant's interest in this Lease unless such involuntary transfer is rescinded within ten (10) days after the date Tenant has actual knowledge thereof, or (ii) other than specifically permitted pursuant to Section 10 hereof, the voluntary transfer of Tenant's interest in this Lease, without Landlord's prior written consent;

(d) the failure of Tenant to discharge any lien placed as a result of Tenant's action or inaction upon the Premises or Building as set forth hereunder within ten (10) days after the date Tenant has actual knowledge thereof;

(e) the occurrence of a Net Tenant Delay, as defined in the Work Letter Agreement, of thirty (30) calendar days or more;

(f) the filing of a petition by or against Tenant (the term "Tenant" also meaning, for the purpose of this clause 24.1(d), any guarantor of the named Tenant's obligations hereunder) that is not withdrawn within thirty (30) days after such filing (i) in any bankruptcy or other insolvency proceeding, (ii) seeking any relief under the Bankruptcy Code or any similar debtor relief law, (iii) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease, or (iv) to reorganize or modify Tenant's capital structure; and

(g) the making by Tenant of an assignment of more than fifty percent (50%) of Tenant's assets for the benefit of its creditors.

24.2 **Remedies of Landlord**. Upon any Event of Default, Landlord may, at Landlord's option in its sole discretion, and in addition to all other rights, remedies and recourses afforded Landlord hereunder or by law or equity, do any one or more of the following:

(a) terminate this Lease by the giving of written notice to Tenant; reenter the Premises, with or without process of law; eject all parties in possession thereof; repossess and enjoy the Premises and all tenant improvements; and recover from Tenant all of the following: (i) all Rent and other amounts accrued hereunder to the date of termination, (ii) all amounts due under Section 24.3, and (iii) liquidated damages in an amount equal to (A) the total Rent that Tenant would have been required to pay for the remainder of the Term discounted to present value at the prime lending rate (or equivalent rate, however denominated) in effect on the date of termination at the largest national bank in the state where the Complex is located, minus (B) the then-present fair rental value of the Premises for such period, similarly discounted, plus any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which would be likely to result therefrom, including, without limitation, attorneys' fees, brokers' commissions or finder's fees;

(b) terminate Tenant's right to possession of the Premises without terminating this Lease by the giving of written notice to Tenant, in which event Tenant shall pay to Landlord (i) all Rent and other amounts accrued hereunder to the date of termination of possession, (ii) all amounts due from time to time under Section 24.3, and (iii) all Rent and other sums required hereunder to be paid by Tenant during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Premises during said period. Reentry by Landlord in the Premises will not affect the obligations of Tenant hereunder for the unexpired Term. Landlord may bring action against Tenant to collect amounts due by Tenant on one or more occasions, without the necessity of Landlord's waiting until expiration of the Term. If Landlord elects to proceed under this Section 24.2(b), it may at any time elect to terminate this Lease pursuant to Section 24.2(a);

(c) alter any and all locks and other security devices at the Premises without being obligated to deliver new keys to the Premises, unless Tenant has cured all Events of Default before Landlord has terminated this Lease under Section 24.2(a) or has entered into a lease to relet all or a portion of the Premises;

(d) if an Event of Default specified in Section 24.1(c) occurs, Landlord may remove and store any property that remains on the Premises and, if Tenant does not claim such property within thirty (30) days after Landlord has delivered to Tenant notice of such storage, Landlord may appropriate, sell, destroy or otherwise dispose of the property in question without notice to Tenant or any other person, and without any obligation to account for such property; and/or

(e) no taking possession of the Premises by Landlord shall be construed as Landlord's acceptance of a surrender of the Premises by Tenant or an election of Landlord to terminate this Lease unless written notice of such intention is given to Tenant. Notwithstanding any leasing or subletting without termination of the Lease, Landlord may at any time thereafter elect to terminate the Lease for Tenant's previous breach.

24.3 **Payment by Tenant**. Upon any Event of Default, Tenant shall also pay to Landlord all costs and expenses reasonably incurred by Landlord, including court costs and reasonable attorneys' fees, in (a) retaking or otherwise obtaining possession of the Premises, (b) removing and storing Tenant's property, (c) constructing the Tenant Improvements, (d) repairing, restoring, altering, remodeling or otherwise putting the Premises into condition acceptable to a new tenant or tenants, not to exceed Building Standard Tenant Improvements, (e) reletting all or any part of the Premises, (f) paying or performing the underlying obligation which Tenant failed to pay or perform, and (g) enforcing any of Landlord's rights, remedies or recourses arising as a consequence of the Event of Default.

24.4 **Reletting**. Upon termination of this Lease or upon termination of Tenant's right to possession of the Premises, Landlord shall use commercially reasonable efforts to relet the Premises on such terms and conditions as Landlord in its sole discretion may determine (including a term different than the Term, rental concessions, and alterations to and improvements of the Premises); however, Landlord shall not be obligated to relet the Premises before leasing other portions of the Building. Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or collect rent due with respect to such reletting. If Landlord relets the Premises, rent Landlord receives from such reletting shall be applied to the payment of: first, any indebtedness from Tenant to Landlord other than Rent (if any); second, all costs, including for maintenance and alterations, reasonably incurred by Landlord in reletting; and third, Rent due and unpaid. In no event shall Tenant be entitled to the excess of any rent obtained by reletting over the Rent herein reserved.

24.5 **Landlord's Right to Pay or Perform**. Upon an Event of Default, Landlord may, but without obligation to do so and without thereby waiving or curing such Event of Default, pay or perform the underlying obligation for the account of Tenant, and enter the Premises and expend the Security Deposit and any other sums for such purpose.

24.6 **No Waiver; No Implied Surrender**. Provisions of this Lease may only be waived by the party entitled to the benefit of the provision evidencing the waiver in writing. Thus, neither the acceptance of Rent by Landlord following an Event of Default (whether known to Landlord or not), nor any other custom or practice followed in connection with this Lease, shall constitute a waiver by Landlord of such Event of Default or any other Event of Default.

Further, the failure by Landlord to complain of any action or inaction by Tenant, or to assert that any action or inaction by Tenant constitutes (or would constitute, with the giving of notice and the passage of time) an Event of Default, regardless of how long such failure continues, shall not extinguish, waive or in any way diminish the rights, remedies and recourses of Landlord with respect to such action or inaction. No waiver by Landlord of any provision of this Lease or of any breach by Tenant of any obligation of Tenant hereunder shall be deemed to be a waiver of any other provision hereof, or of any subsequent breach by Tenant of the same or any other provision hereof. Landlord's consent to any act by Tenant requiring Landlord's consent shall not be deemed to render unnecessary the obtaining of Landlord's consent to any subsequent act of Tenant. No act or omission by Landlord (other than Landlord's execution of a document acknowledging such surrender) or Landlord's agents, including the delivery of the keys to the Premises, shall constitute an acceptance of a surrender of the Premises.

25. **DEFAULTS BY LANDLORD**. Landlord shall not be in default under this Lease, and Tenant shall not be entitled to exercise any right, remedy or recourse against Landlord or otherwise as a consequence of any alleged default by Landlord under this Lease, unless Landlord fails to perform any of its obligations hereunder and said failure continues for a period of thirty (30) days after Tenant gives Landlord and (provided that Tenant shall have been given the name and address of Landlord's Mortgagee) Landlord's Mortgagee written notice thereof specifying, with reasonable particularity, the nature of Landlord's failure. If, however, the failure cannot reasonably be cured within the thirty (30) day period, Landlord shall not be in default hereunder if Landlord or Landlord's Mortgagee commences to cure the failure within the thirty (30) days and thereafter pursues the curing of same diligently to completion. If Tenant recovers a money judgment against Landlord for Landlord's default of its obligations hereunder or otherwise, the judgment shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall be satisfied only out of the interest of Landlord in the Complex as the same may then be encumbered, and Landlord shall not otherwise be liable for any deficiency. In no event shall Tenant have the right to levy execution against any property of Landlord other than its interest in the Complex. The foregoing shall not limit any right that Tenant might have to obtain specific performance of Landlord's obligations hereunder.

26. **RIGHT OF REENTRY**. Upon the expiration or termination of the Term for whatever cause, or upon the exercise by Landlord of its right to reenter the Premises without terminating this Lease, Tenant shall immediately, quietly and peaceably surrender to Landlord possession of the Premises and all tenant improvements therein in "broom clean" and good order, condition and repair, except only for ordinary wear and tear, damage by casualty not covered by Section 15.2 and repairs to be made by Landlord pursuant to Section 15.1. If Tenant is in default under this Lease, Landlord shall have a lien on such personal property, trade fixtures and other property as set forth in Section 38-3-1, et seq., of the Utah Code Ann. (or any replacement provision). Landlord may require Tenant to remove any personal property, trade fixtures, other property, alterations, additions and improvements made to the Premises by Tenant or by Landlord for Tenant, and to restore the Premises to their condition on the date of this Lease. All personal property, trade fixtures and other property of Tenant not removed from the Premises on the abandonment of the Premises or on the expiration of the Term or sooner termination of this Lease for any cause shall conclusively be deemed to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without notice to, and without any obligation to account to, Tenant or any other person. While Tenant remains in

possession of the Premises after such expiration, termination or exercise by Landlord of its reentry right, Tenant shall be deemed to be occupying the Premises as a tenant-at-sufferance, subject to all of the obligations of Tenant under this Lease, except that the Rent shall be one hundred fifty percent (150%) of the Rent in effect immediately before such expiration, termination or exercise by Landlord. No such holding over shall extend the Term. If Tenant fails to surrender possession of the Premises in the condition herein required, Landlord may, at Tenant's expense, restore the Premises to such condition.

27. **MISCELLANEOUS**.

27.1 **Independent Obligations; No Offset**. The obligations of Tenant to pay Rent and to perform the other undertakings of Tenant hereunder constitute independent unconditional obligations to be performed at the times specified hereunder, regardless of any breach or default by Landlord hereunder. Tenant shall have no right, and Tenant hereby waives and relinquishes all rights which Tenant might otherwise have, to claim any nature of lien against the Complex or to withhold, deduct from or offset against any Rent or other sums to be paid to Landlord by Tenant.

27.2 **Time of Essence**. Time is of the essence with respect to each date or time specified in this Lease by which an event is to occur.

27.3 **Applicable Law**. This Lease shall be governed by, and construed in accordance with, the laws of the State of Utah. All monetary and other obligations of Landlord and Tenant are performable in the county where the Complex is located.

27.4 **Assignment by Landlord**. Landlord shall have the right to assign without notice or consent, in whole or in part, any or all of its rights, titles or interests in and to the Complex or this Lease and, upon any such assignment, Landlord shall be relieved of all unaccrued liabilities and obligations hereunder to the extent of the interest so assigned arising after the date of such transfer.

27.5 **Estoppel Certificates; Financial Statements**. From time to time at the request of Landlord or Landlord's Mortgagee, Tenant will within seven (7) calendar days, and without compensation or consideration execute, have acknowledged and deliver a certificate in a commercially reasonable form, setting forth the following: (a) a ratification of this Lease; (b) the Commencement Date, expiration date and other Lease information; (c) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated); (d) that all conditions under this Lease to be performed by Landlord have been satisfied or, in the alternative, those claimed by Tenant to be unsatisfied; (e) that no defenses or offsets exist against the enforcement of this Lease by Landlord or, in the alternative, those claimed by Tenant to exist; (f) whether within the knowledge of Tenant there are any existing breaches or defaults by Landlord hereunder and, if so, stating the defaults with reasonable particularity; (g) the amount of advance Rent, if any (or none if such is the case), paid by Tenant; (h) the date to which Rent has been paid; (i) the amount of the Security Deposit; and (j) such other information as Landlord or Landlord's Mortgagee may reasonably request. Landlord's Mortgagee and purchasers shall be entitled to rely on any estoppel certificate executed by Tenant. Tenant shall, within twenty (20) calendar days after Landlord's request,

furnish to Landlord current financial statements for Tenant, prepared in accordance with generally accepted accounting principles consistently applied and certified by Tenant to be true and correct.

27.6 **Signs, Building Name and Building Address**. Landlord may, from time to time at its discretion, place any and all signs anywhere in the Complex, and may change the name and street address of the Complex. Tenant shall not, without Landlord's prior written consent, use the name of the Building for any purpose other than as the address of the business to be conducted by Tenant from the Premises.

27.7 **Notices**. All notices and other communications given pursuant to this Lease shall be in writing and shall either be sent by overnight courier or mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, and addressed as set forth in Section "G" of the Basic Lease Information, or delivered in person to the intended addressee. Notice sent by overnight courier shall become effective one (1) business day after being sent. Notice mailed in the aforesaid manner shall become effective five (5) business days after deposit. Notice given in any other manner shall be effective only upon receipt by the intended addressee. Each party shall have the continuing right to change its address for notice hereunder by the giving of fifteen (15) days' prior written notice to the other party in accordance with this Section 27.7.

27.8 **Entire Agreement, Amendment and Binding Effect**. This Lease, including all exhibits attached hereto, constitutes the entire agreement between Landlord and Tenant relating to the subject matter hereof, and all prior agreements relative hereto which are not contained herein are terminated. This Lease may be amended only by a written document duly executed by Landlord and Tenant (and, if a Mortgage is then in effect, by the Landlord's Mortgagee entitled to the benefits thereof), and any alleged amendment which is not so documented shall not be effective as to any party. The provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and permitted assigns; provided, however, that this Section 27.8 shall not negate, diminish or alter the restrictions on Transfers applicable to Tenant set forth elsewhere in this Lease.

27.9 **Severability**. This Lease is intended to be performed in accordance with and only to the extent permitted by all Legal Requirements. If any provision of this Lease or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of the invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Lease and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

27.10 **Number and Gender, Captions and References**. As the context of this Lease may require, pronouns shall include natural persons and legal entities of every kind and character, the singular number shall include the plural, and the neuter shall include the masculine and the feminine gender. Section headings in this Lease are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define any section hereof. Whenever the terms "hereof," "hereby," "herein," "hereunder" or words of similar import are

used in this Lease, they shall be construed as referring to this Lease in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary. Any reference to a particular "Section" shall be construed as referring to the indicated section of this Lease.

27.11 **Attorneys' Fees**. In the event either party commences a legal proceeding to enforce any of the terms of this Lease, the prevailing party in such action shall have the right to recover reasonable attorneys' fees and costs from the other party, to be fixed by the court in the same action. "Legal proceedings" includes appeals from a lower court judgment as well as proceedings in the Federal Bankruptcy Court ("Bankruptcy Court"), whether or not they are adversary proceedings or contested matters. The "prevailing party" (i) as used in the context of proceedings in the Bankruptcy Court means the prevailing party in an adversary proceeding or contested matter, or any other actions taken by the non-bankrupt party which are reasonably necessary to protect its rights under this Lease, and (ii) as used in the context of proceedings in any court other than the Bankruptcy Court means the party that prevails in obtaining a remedy or relief which most nearly reflects the remedy or relief which the party sought.

27.12 **Brokers**. Excepting only brokers and agents of Cottonwood Realty Services, representing Landlord, no independent or other broker or agent has been used by either Landlord or Tenant in connection with the leasing transaction contemplated hereby. Tenant and Landlord hereby warrant and represent unto the other that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease, other than as has been previously paid by such party. Each party shall defend, indemnify and hold the other harmless from and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization of such party, or any Affiliate of such party, in connection with this Lease.

27.13 **Interest on Tenant's Obligations**. Any amount of Rent or Additional Rent due from Tenant to Landlord which is not paid when due shall bear interest at the lesser of ten percent (10%) per annum or the maximum rate allowed by law from the date such payment is due until paid, but the payment of such interest shall not excuse or cure the default in payment.

27.14 **Authority**. Each person executing this Lease on behalf of a party warrants and represents that (a) such party is a duly organized and existing legal entity, in good standing in the State of Utah, (b) such party has full right and authority to execute, deliver and perform this Lease, (c) this Lease is binding upon and enforceable against such party in accordance with its terms, (d) the person executing and delivering this Lease on behalf of such party was duly authorized to do so, and (e) upon request of the other party, such person will deliver to the other party satisfactory evidence of his or her authority to execute this Lease on behalf of such party.

27.15 **Recording**. Neither this Lease (including any Exhibit hereto) nor any memorandum hereof shall be recorded without the prior written consent of Landlord.

27.16 **Exhibits**. All Exhibits and written addenda hereto are incorporated herein for any and all purposes.

27.17 **Multiple Counterparts**. This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute but one instrument.

27.18 **Survival of Indemnities**. The indemnity obligations contained in this Lease shall survive the expiration or earlier termination of this Lease to and until the last to occur of (a) the last day permitted by law for the bringing of any claim or action with respect to which indemnification may be claimed, or (b) the date on which any claim or action for which indemnification may be claimed under such provision is fully and finally resolved and any compromise thereof or judgment or award thereon is paid in full. Payment shall not be a condition precedent to recovery upon any indemnification provision contained herein.

27.19 **Non-Merger**. There shall be no merger of this Lease with any ground leasehold interest or the fee estate in the Complex or any part thereof by reason of the fact that the same person may acquire or hold, directly or indirectly, this Lease or any interest in this Lease as well as any ground leasehold interest or fee estate in the Complex or any interest in such fee estate.

27.20 **Miscellaneous**. No amendment to this Lease shall be binding on Landlord or Tenant unless reduced to writing and signed by both parties. Each provision to be performed by Tenant shall be construed to be both a covenant and a condition. Venue on any action arising out of this Lease shall be proper only in the District Court of Salt Lake County, State of Utah. Landlord and Tenant waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other on all matters arising out of this Lease or the use and occupancy of the Premises. The submission of this Lease to Tenant is not an offer to lease the Premises or an agreement by Landlord to reserve the Premises for Tenant. Landlord shall not be bound to Tenant until Tenant has duly executed and delivered duplicate original copies of this Lease to Landlord and Landlord has duly executed and delivered one of those duplicate original copies to Tenant.

27.21 **Confidential Information**.

27.21.1 Ownership and Use. The contents of this Lease and all non-public information regarding either party's business practices or finances shall collectively be referred to herein as the "Confidential Information". In addition, for purposes hereof, (a) the party that discovers the Confidential Information shall be referred to herein as the "Discovering Party", and (b) the party as to which the Confidential Information pertains shall be referred to herein as the "Protected Party". Landlord and Tenant hereby acknowledge that all Confidential Information shall remain the property of the applicable Protected Party. The Discovering Party agrees not to use or disclose any Confidential Information, except (i) as required by law or court order, (ii) to enforce the Discovering Party's rights and/or remedies under this Lease, at law and/or in equity, and/or (iii) to the Discovering Party's attorneys, accountants, brokers, lenders, partners, investors, consultants and employees (and, with respect to Landlord, any prospective purchaser or mortgagee of the Building Complex or any portion thereof). Notwithstanding the foregoing, the following information shall not be deemed "Confidential Information" under this Lease: (A) information which is or hereafter becomes publicly known (except through

disclosure by the Discovering Party), or (B) information which has been or is hereafter furnished to the Discovering Party by a third party without restriction on disclosure.

27.21.2 Protection. The Discovering Party will establish commercially reasonable controls compatible with industry standards to ensure the protection of any of the Protected Party's Confidential Information actually received by the Discovering Party. Each party will establish and will follow commercially reasonable procedures for all employees with access to the Confidential Information of the other party to protect the privacy of such Confidential Information.

27.21.3 Injunctive Relief. The parties acknowledge that the Protected Party may not have an adequate remedy at law in the event of any breach or threatened breach of this Lease pertaining to the Confidential Information, and that the Protected Party or its customers or suppliers may suffer irreparable injury as a result. In the event of any such breach or threatened breach, the Discovering Party hereby consents to the filing of injunctive relief without the requirement that the Protected Party post any bond or other security of any kind, if and to the extent required by applicable law.

EXECUTED as of the date and year above first written.

TENANT ACKNOWLEDGES THAT LANDLORD HAS MADE NO WARRANTIES TO TENANT, EXCEPT AS HEREIN EXPRESSLY SET FORTH, AND LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE.

[**SIGNATURE PAGE FOLLOWS**]

TENANT:

ADS ALLIANCE DATA SYSTEMS, INC.,
a Delaware corporation

By: /s/ Daniel T. Groomes
Name: Daniel T. Groomes
Title: Sr. VP

By: /s/ R. E. Schumacher, Jr.
Name: R. E. Schumacher, Jr.
Title: Senior Vice President

LANDLORD:

NOP COTTONWOOD 2795 LLC,
a Delaware limited liability company

By: NOP Cottonwood Holdings LLC,
a Delaware limited liability company,
its sole member

By: National Office Partners Limited Partnership,
a Delaware limited partnership,
its Sole Member

By: Hines National Office Partners Limited Partnership,
a Texas limited partnership

By: Hines Fund Management, L.L.C.,
a Delaware limited liability company,
general partner

By: Hines Interests Limited Partnership,
a Delaware limited partnership

By: Hines Holdings, Inc.,
a Texas corporation,
its general partner

By: /s/ James C. Buie, Jr.
Name: James C. Buie, Jr.
Title: Executive Vice President

SECOND AMENDMENT TO LEASE AGREEMENT

This SECOND AMENDMENT TO LEASE AGREEMENT ("**Second Amendment**") is dated for reference purposes as of December 19, 2012 (the "**Effective Date**"), by and between NOP COTTONWOOD 2795, LLC, a Delaware limited liability company ("**Landlord**"), and ADS ALLIANCE DATA SYSTEMS, INC., a Delaware corporation ("**Tenant**").

R E C I T A L S:

A. Landlord and Tenant entered into that certain Lease Agreement dated as of September 21, 2010 (the "**Original Lease**"), pursuant to which Landlord leased to Tenant and Tenant leased from Landlord that certain space containing approximately 4,389 square feet of Rentable Area (the "**Existing Premises**") commonly known as Suite 100 and located on the first (1st) floor of that certain office building addressed as 2795 E. Cottonwood Parkway, Salt Lake City, Utah (the "**Building**").

B. Landlord and Tenant entered into that certain First Amendment to Lease Agreement dated as of November 14, 2011 (the "**First Amendment**"), pursuant to which the parties, among other things, permitted Tenant to install, use, operate and maintain the Satellite Equipment (as defined in the First Amendment).

C. The Original Lease and the First Amendment are collectively referred to herein as the "**Lease**".

D. Landlord and Tenant now desire to amend the Lease to: (i) extend the Term of the Lease; (ii) expand the Existing Premises to include that certain space containing approximately 2,099 square feet of Rentable Area (the "**Expansion Space**"), commonly known as Suite 140, located on the first (1st) floor of the Building and depicted on Exhibit A attached hereto; and (iii) modify various terms and provisions of the Lease, all as hereinafter provided.

E. Except as otherwise expressly provided herein to the contrary, all capitalized terms used in this Second Amendment shall have the same meanings given such terms in the Lease.

A G R E E M E N T:

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Extension of Term. The Term of the Lease for the Existing Premises, which is currently scheduled to expire on October 31, 2014, is hereby extended until January 31, 2018 (the "**Revised Expiration Date**"), unless sooner terminated as provided in the Lease (as amended hereby). The period of the Term of the Lease (as so extended) from the Expansion Space Commencement Date (as defined below) through and including the Revised Expiration Date shall sometimes be referred to herein as the "**Extended Term**".

2. Expansion Space.

2.1. Addition of Expansion Space. Commencing on the Expansion Space Commencement Date, the Existing Premises shall be expanded to include the Expansion Space, which Expansion Space shall be leased on the same terms and conditions set forth in the Lease (as amended hereby). From and after the Expansion Space Commencement Date, the Existing Premises and the Expansion Space shall be collectively referred to as the "**Premises**", and shall contain a total of approximately 6,488 square feet of Rentable Area.

2.2. Expansion Space Term. The lease term for the Expansion Space (the "**Expansion Space Term**") shall commence on the Expansion Space Commencement Date and shall expire coterminously with the Extended Term for the Existing Premises on the Revised Expiration Date. For purposes of this Second Amendment, the "**Expansion Space Commencement Date**" shall mean the earlier of: (i) the date Tenant conducts business operations in all or any portion of the Expansion Space; and (ii) the date Landlord delivers the Expansion Space to Tenant Ready for Occupancy, as defined in the Tenant Work Letter attached hereto as Exhibit B (the "**Tenant Work Letter**"), subject to acceleration as a result of any Tenant Delays (as defined and provided in the Tenant Work Letter). Landlord and Tenant presently anticipate that the Expansion Space will be delivered to Tenant Ready for Occupancy on or about February 1, 2013; however, if Landlord is unable to deliver to Tenant the Expansion Space Ready for Occupancy by such date (or any other date), then: (A) the validity of this Second Amendment or the Lease shall not be affected or impaired thereby; (B) Landlord shall not be in default hereunder or under the Lease (as amended hereby), or be liable for damages therefor; and (C) Tenant shall accept possession of the Expansion Space when Landlord delivers the Expansion Space to Tenant Ready for Occupancy.

2.3. Confirmation of Expansion Space Commencement Date. Following the Expansion Space Commencement Date, Landlord shall deliver to Tenant a Notice of Lease Term Dates in the form of Exhibit C attached hereto, which notice Tenant shall execute and return to Landlord within five (5) business days after Tenant's receipt thereof.

3. Base Rent. During the Expansion Space Term, the annual Base Rent (and monthly installments thereof) payable by Tenant for the Existing Premises and the Expansion Space shall be calculated together and shall be as set forth in the following schedule, subject to abatement pursuant to Section 4 below:

Period of Expansion Space Term	Annual Base Rent	Monthly Installment of Base Rent	Annual Base Rent Rate Per Square Foot of Rentable Area of Existing Premises and Expansion Space
Expansion Space Commencement Date – 03/31/14			
04/01/14 – 03/31/15			
04/01/15 – 03/31/16			
04/01/16 – 03/31/17			
04/01/17 – 1/31/18			

4. Abatement of Base Rent. Notwithstanding Section 3 above to the contrary, and provided that Tenant faithfully performs all of the terms and conditions of the Lease (as amended hereby), Landlord shall abate Tenant's obligation to pay the monthly installments of Base Rent otherwise payable by Tenant for the Existing Premises and the Expansion Space (the "**Abated Rent**"), for the first two (2) months of the Expansion Space Term (the "**Abatement Period**"). During the Abatement Period, Tenant shall remain responsible for the payment of all of its other monetary obligations under the Lease (as amended hereby). In the event of a default by Tenant under the terms of the Lease (as amended hereby) that results in the early termination of Tenant's interest therein pursuant to the provisions of Section 24 of the Original Lease, then as a part of the recovery set forth therein, Landlord shall be entitled to the recovery of the Abated Rent.

5. Tenant's Share; Base Year. For purposes of determining Tenant's Share of increases in Operating Expenses for the Existing Premises and the Expansion Space during the Expansion Space Term: (i) Tenant's Share for the Existing Premises and the Expansion Space shall be calculated together and shall be revised to be 4.79% (i.e., 6,488 square feet of Rentable Area of the Existing Premises and the Expansion Space /135,339 square feet of Rentable Area of the Building); and (ii) the Base Year for calculating Tenant's Share of increases in Operating Expenses for the Existing Premises and the Expansion Space shall be revised to be the calendar year 2013.

6. Condition of Premises. Except as otherwise provided in the Tenant Work Letter: (i) Tenant shall continue to occupy the Existing Premises from and after the date of execution of this Second Amendment in its current "AS IS" condition; and (ii) Tenant shall accept the Expansion Space in its "AS IS" condition as of the date of execution of this Second Amendment and on the Expansion Space Commencement Date, without any obligation on Landlord's part to construct or pay for any tenant improvements or refurbishment work in or for the Existing Premises or the Expansion Space.

7. Parking. From and after the Expansion Space Commencement Date, the first sentence of Section F of Part I of the Original Lease shall be modified as follows:

"Tenant shall throughout the Term of the Lease (as extended), lease from Landlord a total of eighteen (18) automobile spaces in the Parking Facility, of which total Tenant may elect to lease up to four (4) assigned and covered automobile spaces at the then-prevailing market rate pursuant to Section 5.5 below."

8. Address of Landlord for Notices. Landlord's addresses for notices (as originally set forth in Section G.2 of Part I of the Original Lease) is, from and after the date of execution of this Second Amendment, modified as follows:

NOP Cottonwood 2795, LLC
c/o CommonWealth Partners Management LLC
515 South Flower Street, Floor 32
Los Angeles, CA 90071
Attention: Asset Manager – Cottonwood Corporate Center

With a copy to:

NOP Cottonwood 2795, LLC
2795 E. Cottonwood Parkway, Suite 155
Salt Lake City, Utah 84121
Attention: Property Manager

9. Brokers. Landlord and Tenant each hereby represents and warrants to the other party that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Second Amendment, excepting only Commerce Real Estate Solutions (representing Landlord), and Continental Realty (representing Tenant) (collectively, the "**Brokers**"), and that it knows of no other real estate broker or agent who is entitled to a commission in connection with this Second Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments and costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing in connection with this Second Amendment on account of the indemnifying party's dealings with any real estate broker or agent (other than the Brokers).

10. Counterparts. This Second Amendment may be executed in multiple counterparts, each of which is to be deemed original for all purposes, but all of which together shall constitute one and the same instrument.

11. No Further Modification. Except as set forth in this Second Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first above written.

LANDLORD:

NOP COTTONWOOD 2795, LLC,
a Delaware limited liability company

By: NOP COTTONWOOD HOLDINGS LLC,
a Delaware limited liability company
Its: sole member

By: NATIONAL OFFICE PARTNERS LLC,
a California limited liability company
Its: sole member

By: CWP CAPITAL MANAGEMENT, LLC,
a Delaware limited liability company
Its: Manager

By: /s/ Joseph A. Corrente
Name: Joseph A. Corrente
Its: Senior Vice President

TENANT:

ADS ALLIANCE DATA SYSTEMS, INC.,
a Delaware corporation

By: /s/ Timothy King
Name: Timothy King
Title: CFO and CAO

Exhibit 10.52

NON-EMPLOYEE DIRECTOR RESTRICTED STOCK UNIT AWARD AGREEMENT
UNDER THE ALLIANCE DATA SYSTEMS CORPORATION
2010 OMNIBUS INCENTIVE PLAN

THIS RESTRICTED STOCK UNIT AWARD AGREEMENT (the "**Agreement**"), made as of June 29, 2012 (the "**Grant Date**") by and between Alliance Data Systems Corporation (the "**Company**") and [BOD NAME] (the "**Participant**") who is a non-employee director of the Company.

WHEREAS, pursuant to the Company's 2010 Omnibus Incentive Plan (the "**Plan**"), the Company desires to afford the Participant the opportunity to acquire, or enlarge his ownership of, the Company's common stock, $0.01 par value per share ("**Stock**"), so that he may have a direct proprietary interest in the Company's success.

WHEREAS, the Company desires to have the Participant continue to serve on the Company's Board of Directors ("**Board**") and to provide the Participant with an incentive.

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

1. **Restricted Stock Units Awarded**.

(a) The Company hereby awards to the Participant, in the aggregate, [# SHARES] Restricted Stock Units which shall be subject to the conditions set forth in the Plan and this Agreement.

(b) Restricted Stock Units shall be evidenced by an account established and maintained for the Participant, which shall be credited for the number of Restricted Stock Units granted to the Participant. By accepting this Award, the Participant acknowledges that the Company does not have an adequate remedy in damages for the breach by the Participant of the conditions and covenants set forth in this Agreement and agrees that the Company is entitled to and may obtain an order or a decree of specific performance against the Participant issued by any court having jurisdiction.

(c) Except as provided in the Plan or this Agreement, prior to vesting as provided in Section 2 of this Agreement, the Restricted Stock Units will be forfeited by the Participant and all of the Participant's rights to Stock underlying the Award shall immediately terminate without any payment or consideration by the Company, in the event of a Participant's early termination of service as provided in Section 3 below.

2. **Vesting**. Subject to Sections 1 and 3 of this Agreement, the restrictions thereon will lapse and Award will vest upon the earlier of:

(a) The Participant's termination of service, which for the purposes of this Agreement is defined as (i) the Participant's separation of service from the Board at the end of the Participant's elected term of service; (ii) the Participant's death; or (iii) the Participant's Disability; or

(b) June 28, 2022.

Notwithstanding the foregoing, subject to the limitations of the Plan, the Committee may accelerate the vesting of all or part of the Award at any time and for any reason. As soon as practicable after the Award vests and consistent with Section 409A of the Code, payment shall be made in Stock (based upon the Fair Market Value of the Stock on the day all restrictions lapse). The Committee shall cause the Stock to be electronically delivered to the Participant's electronic account with respect to such Stock free of all restrictions. Pursuant to Section 9, the number of shares of Stock delivered shall be net of the number of shares of Stock withheld for satisfaction of Withholding Taxes, if any.

3. **Forfeiture for Early Termination of Service**. Unless otherwise determined by the Committee at time of grant or thereafter or as otherwise provided in the Plan, if the Participant terminates his service prior to the end of his elected term, any unvested portion of any outstanding Award held by a Participant at the time of such early termination of service will be forfeited upon such termination.

4. **Company; Participant**.

(a) The term **"Company"** as used in this Agreement with reference to employment shall include the Company and its Affiliates, as appropriate.

(b) Whenever the word **"Participant"** is used in any provision of this Agreement under circumstances where the provision should logically be construed to apply to the beneficiaries, the executors, the administrators, or the person or persons to whom the Restricted Stock Units may be transferred by will or by the laws of descent and distribution, the word **"Participant"** shall be deemed to include such person or persons.

5. **Adjustments; Change in Control**.

(a) In the event that the Committee determines that any dividend or other distribution (whether in the form of cash, Stock or other property), recapitalization, forward or reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase or exchange of Stock or other securities, liquidation, dissolution, or other similar corporate transaction or event, affects the Stock such that an adjustment is appropriate in order to prevent dilution or enlargement of the rights of Participants under the Plan, then the Committee shall, in such manner as it may deem equitable, adjust any or all of the number and kind of shares that may be issued in respect of Restricted Stock Units. In addition, the Committee is authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of unusual or nonrecurring events (including, without limitation, events described in the preceding sentence) affecting the Company or any Affiliate or the financial statements of the Company or any Affiliate or in response to changes in applicable laws, regulations, or accounting principles.

(b) In connection with a Change in Control, the Committee may, in its sole discretion, accelerate the vesting with respect to the Award. If the Award is not assumed, substituted for an award of equal value, or otherwise continued after a Change in Control, the Award shall automatically vest prior to the Change in Control at a time designated by the Committee. Timing of any payment or delivery of shares of Stock under this provision shall be subject to Section 409A of the Code.

6. **Compliance with Law**. Notwithstanding any of the provisions hereof, the Company will not be obligated to issue or transfer any Stock to the Participant hereunder, if the exercise thereof or the issuance or transfer of such Stock shall constitute a violation by the Participant or the Company of any provisions of any law or regulation of any governmental authority. Any determination in this connection by the Committee shall be final, binding and conclusive. The Company shall in no event be obliged to register any securities pursuant to the Securities Act of 1933 (as now in effect or as hereafter amended) or to take any other affirmative action in order to cause the issuance or transfer of Stock pursuant thereto to comply with any law or regulation of any governmental authority.

7. **No Right to Re-election or Continued Service**. Nothing in this Agreement or in the Plan shall confer upon the Participant any right to continue in the service of the Company as a non-employee director nor shall the Agreement be deemed to create any obligation of the Board to nominate any of its members for re-election by the Company stockholders nor confer on the Participant the right to remain a member of the Board for any period of time or at any particular rate of compensation. This Agreement shall not interfere with or restrict in any way the rights of the Company, which are hereby expressly reserved. Participant acknowledges and agrees that the continued vesting of the Restricted Stock Units granted hereunder is premised upon his provision of future services as a member of the Board and such Restricted Stock Units shall not accelerate upon his termination of service for any reason unless specifically provided for herein.

8. **Representations and Warranties of Participant**. The Participant represents and warrants to the Company that:

(a) Agrees to Terms of the Plan. The Participant has received a copy of the Plan, which is incorporated herein by reference, and has read and understands the terms of the Plan and this Agreement, and agrees to be bound by their terms and conditions. In the event of a conflict or inconsistency between the terms and provisions of the Plan and the provisions of this Agreement, the Plan shall govern and control. **All capitalized terms not defined herein shall have the meaning ascribed to them as set** forth in the Plan. The Participant acknowledges that there may be tax consequences upon the vesting of Restricted Stock Units or later disposition of the shares of Stock once the Award has vested, and that the Participant should consult a tax adviser prior to such time.

(b) Cooperation. The Participant agrees to sign such additional documentation as may reasonably be required from time to time by the Company.

9. **Taxes and Share Withholding**. At such time as the Participant has taxable income in connection with an Award (a "**Taxable Event**") and prior to the issuance of shares of Stock, the Company has the right to require the Participant to pay to the Company an amount in cash, or the Company may withhold the number of shares of Stock having an aggregate Fair Market Value, equal to the federal, state and local income taxes and other amounts as may be required by law to be withheld (the "**Withholding Taxes**") with respect to the Restricted Stock Units. The Participant may be given the opportunity to make a written election to deposit cash in Participant's electronic account or to have withheld a portion of shares of Stock issuable to Participant upon vesting of the Restricted Stock Units, having an aggregate Fair Market Value equal to the Withholding Taxes in connection with the Taxable Event.

10. **Rights as Stockholder**. The Participant shall have no rights as a stockholder with respect to any Restricted Stock Unit until he shall have become the holder of record of such Stock, and no adjustment shall be made for dividends or distributions or other rights for which the record date is prior to the date upon which Participant shall become the holder of record thereof.

11. **Notice**. Every notice or other communication relating to this Agreement shall be in writing, and shall be mailed to or delivered to the party for whom it is intended at such address as may from time to time be designated by it in a notice mailed or delivered to the other party as herein provided; provided, that, unless and until some other address be so designated, all notices or communications by the Participant to the Company shall be mailed or delivered to the Company at its principal executive office, and all notices or communications by the Company to the Participant may be given to the Participant personally or may be mailed to him or her at his or her address as recorded in the records of the Company. Notwithstanding the foregoing, at such time as the Company institutes a policy for delivery of notice by e-mail, notice may be given in accordance with such policy.

12. **Governing Law**. This Agreement shall be construed and interpreted in accordance with the laws of the State of Delaware without regard to its conflict of law principles.

13. **Electronic Transmission**. The Company reserves the right to deliver any notice or Award by email in accordance with its policy or practice for electronic transmission and any written Award or notice referred to herein or under the Plan may be given in accordance with such electronic transmission policy or practice.

* * * * * *

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ALLIANCE DATA SYSTEMS
CORPORATION

By: /s/ Leigh Ann Epperson
Leigh Ann Epperson
SVP, General Counsel and Secretary

PARTICIPANT

_____
[Insert BOD Member Name]

Exhibit 10.56

ALLIANCE DATA SYSTEMS

401(k) AND RETIREMENT SAVINGS PLAN

PREAMBLE

BSI Business Services, Inc. adopted the BSI Business Services, Inc. 401(k) and Retirement Savings Plan (the "Plan") effective as of January 24, 1996. The purpose of the Plan is to provide eligible employees with retirement benefits. The Plan is intended to be a profit sharing plan qualifying under Section 401 (a) of the Code with a cash or deferred arrangement qualifying under Section 401(k) of the Code.

BSI Business Services, Inc. was renamed ADS Alliance Data Systems, Inc. Accordingly, the Plan was amended, restated, and renamed the Alliance Data Systems 401(k) and Retirement Savings Plan, effective as of January 1, 1997. The Plan was subsequently amended and restated effective January 1, 2004, to include various changes, including retroactive changes required by applicable federal law for the Plan to remain tax-qualified under the Code, and to make changes necessary to qualify the Plan for the “safe harbor” testing option provided under Code Section 401(k)(12). For each year the Plan intends to qualify for this testing option, the Committee shall provide the notice to Participants required thereunder. The Plan was again amended and restated effective January 1, 2008. The Plan is hereby amended and restated effective January 1, 2013, except where expressly provided. The provisions for Roth Elective Deferrals, for example, are effective November 1, 2012.

Article 1

DEFINITIONS

The following words and phrases as used herein shall have the following meanings, and the masculine, feminine and neuter gender shall be deemed to include the others, unless a different meaning is plainly required by the context:

1.1 Account

The total of the separate accounts that are maintained for a Participant under the Plan.

1.2 Accrued Benefit

The sum of the amounts credited to the Participant's Account as of any date.

1.3 Actual Deferral Percentage

The ratio (expressed as a percentage) of the Tax Deferred Deposits made on behalf of the Participant for the Plan Year to the Participant's Compensation for the Plan Year while the Participant is eligible to make Tax Deferred Deposits.

1.4 Adjustment Factor

The cost of living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code, applied as the Secretary shall provide.

1.5 Annuity Commencement Date

The first day of the first period for which an amount is payable as an annuity or any other form.

1.6 Average Actual Deferral Percentage

The average (expressed as a percentage) of the Actual Deferral Percentages of the Participants in a group.

1.7 Average Contribution Percentage

The average (expressed as a percentage) of the Contribution Percentages of the Participants in a group.

1.8 Benefits Administration Committee

The committee described in Section 13.5.

1.9 Beneficiary

The person, persons or entity designated in writing by a Participant, or otherwise determined in accordance with the Plan, entitled to receive any death benefit which may be, or may become, payable under the Plan.

1.10 Board of Directors

The Board of Directors of the Company, as constituted from time to time. The Board of Directors shall have the right and the power to delegate any duty or power under the Plan to one or more persons, and any reference in the Plan to the Board of Directors shall include a reference to such delegatee(s).

1.11 Catch-Up Contributions

The supplemental amounts a Participant elects to defer pursuant to Section 3.10.

1.12 Code

The Internal Revenue Code of 1986, as amended from time to time.

1.13 Company

ADS Alliance Data Systems, Inc. and any successor thereto.

1.14 Company Account

The account into which Employer Matching Contributions, Discretionary Profit Sharing Contributions, and Retirement Contributions shall be credited, which may include subaccounts to account for contributions made under plans merged into the Plan.

1.15 Compensation

Shall have the following meanings for specific purposes under the Plan:

(A) For purposes of determining the amount of any (i) Deposits; (ii) Employer Matching Contributions; (iii) Retirement Contributions; and (iv) Discretionary Profit Sharing Contributions, “Compensation” shall mean the regular wages (i.e., base pay), overtime, commissions, leave cashouts, and cash incentives paid to an Employee by an Employer for the applicable Plan Year while a Participant in the Plan, but excluding sign-on bonuses, disability pay, workers compensation, severance pay, service related cash awards, any amounts which constitute tax gross ups of taxable amounts, any amounts deferred under, or contributed to, a non-qualified deferred compensation plan, and referral awards.

In addition, Compensation for this purpose includes any contributions made by the Employer on behalf of an Employee pursuant to a deferral election under any employee benefit plan containing a cash or deferred arrangement under Code Section 401(k), any amounts that would have been received as cash but for an election to receive benefits under a cafeteria plan meeting the requirements of Code Section 125, and any election of transportation benefits under a program established pursuant to Code Section 132(f).

With respect to a Period of Military Service, an Employee will be considered to have received the same rate or level of Compensation during his absence that he was receiving immediately prior to his absence, or if the rate of Compensation is not reasonably certain, on the basis of the Employee’s average rate of Compensation during the twelve (12) month period immediately preceding such period (or if shorter, the period of employment immediately preceding such period).

(B) For purposes of the limitations imposed by Section 415 of the Code, the Top-Heavy plan minimum contribution requirements of Section 416 of the Code, and the determination of Highly Compensated Employees pursuant to Section 414(q) of the Code, "Compensation" means wages within the meaning of Section 3401(a) and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(21). Thus, Compensation shall include "differential wage payments" within the meaning of section 3401(h)(2) of the Code to a Participant who is performing qualified military service described in section 414(u)(5) of the Code.

Notwithstanding the foregoing, Compensation for this purpose includes an Employee's elective deferrals under Code Section 402(g)(3)) and amounts contributed or deferred under Code Section 125, or Code Section 457 at the Employee's election for purposes of determining who is a Highly Compensated Employee and for purposes of Code Section 415 limits on benefits, and an Employee's elective deferrals under Code Section 132(f).

(C) For purposes of determining a Participant's Actual Deferral Percentage used in performing the average deferral percentage nondiscrimination test described in Section 401(k)(3) of the Code and the Contribution Percentage used in performing the average contribution percentage nondiscrimination test described in Section 401(m)(2) of the Code, "Compensation" shall mean compensation as defined in Section 414(s) of the Code and the regulations thereunder.

(D) For purposes of defining "Key Employee" under Section 416 of the Code, "Compensation" shall mean Compensation as defined in Paragraph (B) paid to the eligible Employee other than compensation in the form of qualified or previously qualified deferred compensation that is currently includible in the gross income of the eligible Employee for Federal income tax purposes. In addition, for purposes of this Paragraph (D), Compensation shall include amounts withheld from a Participant's earnings pursuant to a salary reduction agreement entered into by the Participant in accordance with Sections 401(k) or 125 of the Code. Compensation shall also include amounts withheld from a Participant's earnings pursuant to a salary reduction agreement entered into by the Participant in accordance with Code Section 132(f).

(E) Notwithstanding anything herein to the contrary, Compensation shall be limited annually to $255,000 (adjusted in future years as provided under Code section 401(a)(17)).

1.16 Contribution Percentage

The ratio (expressed as a percentage) of the Taxed Deposits and, in the case of a Participant who has not completed a Year of Eligibility Service, the Employer Matching Contributions made under the Plan on behalf of the Participant for the Plan Year to the Participant's Compensation for the Plan Year while the Participant is eligible to have Taxed Deposits and, in the case of a Participant who has not completed a Year of Eligibility Service, the Employer Matching Contributions made on his behalf.

1.17 Deposit Election

The election made by a Participant authorizing and electing a percentage of his Compensation to be withheld by the Employer and contributed on behalf of the Participant as Tax Deferred Deposits or deducted by the Employer and contributed on behalf of the Participant as Taxed Deposits.

1.18 Deposits

The amounts that a Participant elects to contribute or have contributed on his behalf to the Trust pursuant to Article 3 or Article 12, including Tax Deferred Deposits, Roth Elective Deferrals, Taxed Deposits, and Catch-Up Contributions.

1.19 Effective Date

This amended and restated Plan is generally effective January 1, 2013. The Plan was originally effective January 24, 1996.

1.20 Eligibility Computation Period

The twelve consecutive month period beginning on the date the Employee is first credited with an Hour of Service and each anniversary thereof, provided, however, that if the Employee is not credited with 1,000 or more Hours of Service in the first such period, the Eligibility Computation Period shall be the Plan Year beginning with the Plan Year beginning in the first Eligibility Computation Period.

1.21 Employee

Any person who is receiving compensation for personal services rendered in the employment of the Employer including Leased Employees. Notwithstanding the foregoing, if such Leased Employees constitute less than twenty percent of the Employer's Nonhighly compensated work force within the meaning of Section 414(n)(5)(C)(ii) of the Code, the term Employee shall not include those Leased Employees covered by a plan described in Section 414(n)(5) of the Code.

1.22 Employer

The Company and any subsidiary or affiliated organization which, with the approval of the Board of Directors and subject to such considerations as the Board of Directors may impose, adopts this Plan. Each adopting Employer authorizes the Company and/or the Company's Board of Directors, as applicable, to act on its behalf with respect to the Plan in all respects, provided, however, that each adopting Employer may reserve the authority to withdraw from the Plan.

In determining Hours of Service for the purposes of determining an Employee's eligibility to participate in the Plan and the vesting of benefits, in determining whether an Employee is a Highly Compensated Employee, in determining the special rules on deferral percentage limitations and the special rules for contribution percentage limit testing, in determining whether the Plan is Top-Heavy under Section 416 of Code, in determining whether an Employee has terminated employment with each Employer, and in determining the limitations on Annual Additions under Section 415 of the Code, the term "Employer" shall include any other corporation or other business entity which must be aggregated with the Employer under Section 414(b), (c), (m) or (o) of the Code, but only for such periods of time when the Employer and such other corporation or other business entity must be aggregated as aforesaid. For purposes of the determination of the limitations on Annual Additions, such definition of "Employer" shall be modified by Section 415(h) of the Code.

1.23 Employer Matching Contributions

The amounts contributed on behalf of a Participant pursuant to Section 4.1.

1.24 Employment Commencement Date

The date on which an Employee is first credited with an Hour of Service for the performance of duties for an Employer.

1.25 Entry Date

The first day on which it is administratively practicable to enroll in the Plan an Employee who is eligible under Article 2, which date shall in no case be more than 30 days after the date the Employee first becomes eligible under Article 2.

1.26 ERISA

The Employee Retirement Income Security Act of 1974, as amended from time to time.

1.27 Excess Aggregate Contributions

Taxed Deposits and, in the case of a Participant who has not completed a Year of Eligibility Service, Employer Matching Contributions in excess of the Contribution Percentage limit, as described in Section 401(m)(6)(B) of the Code.

1.28 Excess Contributions

Tax Deferred Deposits in excess of the Actual Deferral Percentage limit, as described in Section 401(k)(8)(B) of the Code.

1.29 Excess Deferrals

Tax Deferred Deposits in excess of the limits imposed by Section 402(g) of the Code.

1.30 Forfeiture Account

The account holding unallocated assets representing forfeitures of previously allocated amounts.

1.31 Highly Compensated Employee

Any Employee who performs service for an Employer during the determination year and who, during the look-back year received Compensation (as defined in Section 1.15(B)) from an Employer in excess of $115,000, multiplied by the Adjustment Factor. The term Highly Compensated Employee also includes Employees who are 5 percent owners at any time during the look-back year or determination year. For this purpose, the determination year shall be the Plan Year. The look-back year shall be the twelve-month period immediately preceding the determination year.

1.32 Hour of Service

(A) Each hour for which an Employee is directly or indirectly paid or entitled to payment for the performance of duties for an Employer; these hours shall be credited to the computation period in which the duties are performed, and

(B) Each hour for which an Employee is directly or indirectly entitled to payment on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity, disability, pregnancy, or in connection with adoption of a child, layoff, jury duty, Period of Military Service or leave of absence; except that

(1) not more than five hundred and one (501) Hours of Service shall be credited in each single computation period during which the Employee performs no duties, and

(2) Hours of Service shall not be counted where such payment is made or is due:

(a) under a plan maintained solely for the purpose of complying with applicable workmen's compensation, unemployment or disability insurance laws, or

(b) solely to reimburse an Employee for medical or medically-related expenses; (hours credited under this Paragraph (B) shall be credited to the computation period(s) in which the period during which no duties were performed occurred), and

(C) Each hour for which back pay, irrespective of payment due to mitigation of damages, is either awarded or agreed to by the Employer; these hours shall be credited to the computation period(s) to which the award or agreement for back pay pertains rather than to the computation period in which the award, agreement or payment is made; provided, however, that the limits under Paragraph (B) above are applicable and that an Employee shall not be entitled to additional Hours of Service under this Paragraph (C) for the same Hours of Service credited under Paragraphs (A) or (B) above.

Hours of Service hereunder shall be calculated and credited by any method permitted under Department of Labor Regulation Sections 2530.200b-2(b) and (c), which are incorporated by reference hereunder.

In the case of Hours of Service to be credited to an Employee in connection with a period of no more than thirty-one (31) days which extends beyond one computation period, all such Hours of Service may be credited to the first computation period or the second computation period in a manner applied consistently with respect to all Employees within reasonably defined job classifications.

If Hours of Service are not maintained for an Employee, Hours of Service shall be determined on the assumption that such Employee has completed forty-five (45) Hours of' Service during each week he is required to be credited with at least one (1) Hour of Service by an Employer.

In the case of a Period of Military Service, an Employee shall be deemed to be employed for the average number of Hours of Service per week for the three month period immediately prior to the Period of Military Service, or if the Employee has worked less than three months, the average number of Hours of Service worked per week for the time employed.

Hours of Service shall be credited for a leave of absence that qualifies as FMLA leave under the Family and Medical Leave Act to the extent required under such Act.

For purposes of determining an Employee's eligibility to participate in the Plan and vesting of benefits, an Hour of Service shall also include an Hour of Service with a company heretofore or hereafter merged or consolidated or otherwise absorbed by an Employer or all or a substantial part of the assets or business of which have been or shall be acquired by an Employer, ("Predecessor Company"):

(1) if the Employer continues to maintain an employee benefit plan of such Predecessor Company ("Predecessor Plan");

(2) if, and to the extent, such employment with the Predecessor Company is required to be treated as employment with the Employer under regulations prescribed by the Secretary of the Treasury; or

(3) if, and to the extent, provided in Appendix A

1.33 Investment Fund(s)

The investment fund(s), if any, established pursuant to Section 6.2.

1.34 Leased Employee

Any person who provides services to the Employer if: (A) such services are provided pursuant to an agreement between the Employer and any other person; (B) such person has performed such services for the Employer (or the Employer and related persons) on a substantially full-time basis for a period of at least one (1) year; and (C) such services are performed under the primary direction or control of the recipient Employer.

1.35 Leave of Absence

An absence authorized by the Employer under its standard personnel practices as applied in a uniform and non-discriminatory manner to all persons similarly situated, provided the Employee resumes service with the Employer within the period specified in the authorization for the Leave of Absence.

Except for a Period of Military Service, for purposes of determining an Employee's date of Separation from Service and an Employee's Hours of Service, a Leave of Absence shall not exceed a period of twelve (12) consecutive months.

1.36 Nonhighly Compensated Employee

An Employee who is not a Highly Compensated Employee.

1.37 Normal Retirement Age

An Employee's 65th anniversary of birth.

1.38 One Year Break in Service

An Eligibility Computation Period or Vesting Computation Period in which the Employee is credited with less than five hundred (500) Hours of Service.

1.39 Participant

An Employee who becomes eligible to participate in the Plan pursuant to Article 2 and who continues to be eligible to participate under the Plan, whether or not he elects to make Deposits.

1.40 Period of Military Service

For an Employee who is either (A) inducted into the Armed Forces of the United States pursuant to 38 U.S.C. §2021, as amended from time to time, or (B) enlists in the Armed Forces of the United States, or enters upon active duty in the Armed Forces of the United States in response to an order or call to active duty pursuant to 38 U.S.C. §2024, as amended from time to time, the time period spanning induction, training, and service in the Armed Forces and up to his reemployment date as described in such statute; provided that such Employee (1) leaves the Armed Forces under the conditions or circumstances described in the applicable statute and (2) makes application for reemployment as an Employee within the time limit prescribed in the applicable statute and is reemployed as an Employee as a result thereof.

1.41 Personal Accounts

The accounts established and maintained pursuant to Article 5 or Article 12 in which are reflected all Deposits made by or on behalf of a Participant, together with all assets attributable thereto. If the Participant participated in the World Financial Network Plan, his or her Personal Account shall include a subaccount for Pre-Tax Contributions made under such plan and referred to as the World Financial Network Plan Pre-Tax Savings Account and subaccounts to reflect Tax Deferred Deposits and Taxed Deposits, if any, made under the Plan on and after January 1, 1998.

1.42 Plan

The Alliance Data Systems 401(k) and Retirement Savings Plan, as herein set forth, and as it may hereafter be amended from time to time.

1.43 Plan Year

The calendar year.

1.44 Reemployment Commencement Date

The first day following a One-Year Break in Service on which an Employee is credited with an Hour of Service for the performance of duties for an Employer.

1.45 Retirement Contributions

The amounts contributed on behalf of a Participant pursuant to Section 4.5.

1.46 Rollover Account

The account maintained for a Participant who made a rollover contribution pursuant to Article 10, Article 12, or Article 16, provided, however, that amounts attributable to a conversion election pursuant to Article 10, the rollover of a Roth account pursuant to Article 12, or both, and earnings thereon, shall be accounted for separately.

1.47 Rollover Contribution

The contributions received by the Plan from a Participant and maintained in the Rollover Account.

1.48 Roth Elective Deferral

An elective deferral that is: (1) designated irrevocably by the Participant at the time of the cash or deferred election as a Roth elective deferral that is being made in lieu of all or a portion of the pre-tax elective deferrals the Participant is otherwise eligible to make under the Plan; and (2) treated by the Company as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a cash or deferred election.

1.49 Roth Elective Deferral Account

The account maintained for a Participant who has made a Roth Elective Deferral.

1.50 Senior Associate

A Participant who has completed either 180 days of service with an Employer, which need not be continuous, or a Year of Eligibility Service, whichever first occurs, as of an Entry Date.

1.51 Separation from Service

The termination by discharge, resignation, death, retirement on or after Normal Retirement Age or Total and Permanent Disability from the service of the Employer, and also a severance from employment with the Employer or an employer in accordance with Code Section 401(k)(2)(B)(i)(I) and regulations thereunder.

1.52 Spouse

The person to whom a Participant or a former Participant is legally married, under the laws of the state in which he is domiciled, or if he is domiciled outside the United States, to the extent recognized under the laws of the State of Texas.

1.53 Tax Deferred Deposits

Deposits made under the Plan which were subject to a cash or deferred election under Section 401(k) of the Code and designated as Tax Deferred Deposits pursuant to Section 3.2.

1.54 Taxed Deposits

A Participant's after-tax Deposits made under the Plan and designated as Taxed Deposits pursuant to Section 3.2.

1.55 Total and Permanent Disability

Any Disability for which a Participant qualifies and receives disability insurance benefits under United States Social Security laws.

1.56 Trust Agreement

The trust agreement between the Company and the Trustee established for the purpose of funding benefits under the Plan.

1.57 Trust Fund

All such money or other property which is held by the Trustee or custodian pursuant to the terms of the Trust Agreement.

1.58 Trustee

The trustee or custodian, if any, acting as such pursuant to the Trust Agreement, or any successor or successors to said trustee or custodian, as the case may be.

1.59 Valuation Date

Each business day in the Plan Year.

1.60 Vesting Computation Period

A Plan Year.

1.61 World Financial Network Plan

The World Financial Network National Bank Savings and Retirement Plan as in effect on December 31, 1997.

1.62 Year of Eligibility Service

An Eligibility Computation Period in which an Employee is credited with at least one thousand (1,000) Hours of Service. An Employee's Year(s) of Eligibility Service shall include service credited pursuant to Appendix A.

1.63 Year of Vesting Service

(A) A Vesting Computation Period in which the Employee is credited with five hundred (500) or more Hours of Service. In addition, Year(s) of Vesting Service shall include service credited pursuant to Appendix A.

Article 2

PARTICIPATION

2.1 Plan Entry Date

Each Employee who was a Participant immediately prior to the Effective Date shall continue as a Participant in this Plan as of the Effective Date, provided such Employee is not ineligible to participate in accordance with Section 2.3. Each other Employee who satisfies the requirements specified in Section 2.2 shall become a Participant on the Entry Date coincident with or next following the date on which he satisfies such requirements.

2.2 Participation Requirement(s)

Subject to Section 2.3, an Employee who has attained age 18 may become a Participant on any Entry Date that coincides with or follows his or her Employment Commencement Date, provided, however, that any Employee who is classified as a “seasonal” or “on-call” Employee on the Employer’s payroll system must complete a Year of Eligibility Service and attain age 18 to become a Participant.

2.3 Ineligible Employee

An Employee who is otherwise eligible to participate in the Plan will not become or continue as an active Participant if:

(A) He performs services for an Employer solely as a "Leased Employee," is employed on a temporary basis, or is classified by an Employer as an independent contractor, regardless of whether any such person is subsequently reclassified as having been a common law employee of an Employer while performing such services;

(B) He is covered by a collective bargaining agreement that does not expressly provide for participation in the Plan;

(C) He is a nonresident alien who receives no earned income (within the meaning of Code Section 911 (d)(2) from an Employer which constitutes income from sources within the United States (within the meaning of Code Section 861 (a)(3));

(D) He is employed by a subsidiary or affiliated company that has not adopted the Plan; or

(E) He is a United States citizen whose compensation for services is paid by a foreign affiliate of an Employer (within the meaning of Code Section 406), unless the Employer has entered into an agreement described in Code Section 3121(l) with respect to the payment of Social Security taxes on behalf of the Employee that applies to any other funded plan of deferred compensation (other than a qualified plan sponsored by the Employer) with respect to the compensation paid by the foreign affiliate.

2.4 Enrollment

To make Deposits, an eligible Employee must enroll in accordance with procedures established by the Benefits Administration Committee.

2.5 Reemployed Participants

If a former Participant resumes employment with the Company or any Employer following a Separation from Service, he may rejoin the Plan on the day he resumes employment and shall participate on such date by enrolling in accordance with procedures established by the Benefits Administration Committee.

2.6 Reemployed Non-Participants

Except as provided in Section 2.8 below, the following provisions will apply to an Employee who terminates employment before becoming a Participant:

(A) An Employee who terminates employment after meeting the requirements of Section 2.2 and again becomes an Employee will become a Participant on the first Entry Date following the date of such reemployment, if he is not otherwise excluded from active participation in the Plan.

(B) An Employee who terminates employment before meeting the requirements of Section 2.2 and who again becomes an Employee will become a Participant on the first Entry Date following the date in which he meets the requirements of Section 2.2, if he is not otherwise excluded from active participation in the Plan.

2.7 Change of Status of Participants

(A) If a Participant secures a Leave of Absence or is temporarily laid off, he shall continue to be a Participant in the Plan, but he shall not be permitted to make any Deposits under the Plan during such absence or layoff, except as to Compensation previously earned. Such a Participant shall share in any Employer Matching

Contribution on the basis of his Tax Deferred Deposits or Taxed Deposits for that part of any Plan Year during which he was not on a Leave of Absence. On the basis of his Compensation for that part of the Plan Year during which he was not on a Leave of Absence or laid off, he shall share in Retirement Contributions made as of the last day of such Plan Year provided that on this date he is still on a Leave of Absence or lay-off status. If any Participant on such a Leave of Absence or on temporary layoff does not return to employment at the end of such absence, or layoff, such Participant shall for the purpose of the Plan be deemed to have Separated from Service at the scheduled end of such absence or at the scheduled end of such layoff, as the case may be, and shall be governed by all provisions of the Plan that would have been applicable to him if he had then Separated from Service. Leaves of Absence and temporary layoffs shall be governed by personnel procedures as in effect from time to time for the Company or other Employer, as the case may be, as applied by the Benefits Administration Committee.

(B) Any Participant in the Plan who becomes a participant in any other qualified retirement plan to which the Company or any Employer makes contributions shall be precluded from making any Deposits or receiving Employer Matching Contributions, Discretionary Profit Sharing Contributions, or Retirement Contributions under the Plan for as long as he is a participant in such other plan. If he ceases to be a participant in such other plan and is otherwise eligible to participate in the Plan, he may resume making Deposits under the Plan on any subsequent Entry Date by making an election to that effect and shall be eligible to receive Employer Matching Contributions and Retirement Contributions (based on the Compensation earned while not participating in the other plan) as otherwise provided herein.

(C) If a Participant shall commence employment with an employer designated by the Benefits Administration Committee for this purpose, assets representing such Participant's Account balances in this Plan shall be transferred to the trust forming part of such employer's qualified defined contribution plan provided that the trust to which such asset transfer is to be made permits such transfer. All such asset transfers with respect to a Plan Year shall be made as of December 31st of such year and shall be valued as of such date. All such asset transfers shall be subject to Section 15.3 and shall comply with Section 414(l) of the Code and the regulations thereunder.

2.8 Breaks in Service

If an Employee who has no nonforfeitable interest in an Accrued Benefit incurs five (5) consecutive One-Year Breaks in Service, his prior Years of Eligibility Service and/or Years of Vesting Service, as applicable, shall be forfeited.

Article 3

DEPOSITS

3.1 Rate of Deposits

Subject to limits imposed by the Code or in the Plan, a Participant shall elect to make Deposits under the Plan by designating the percentage of Compensation (in increments of 1%) he wishes to have contributed to the Trust on his behalf. The minimum percentage shall be 1% and the maximum percentage shall be set from time to time by the Benefits Administration Committee.

3.2 Type of Deposits

A Participant may elect that the Deposits made under the Plan on his behalf be Tax Deferred Deposits or Taxed Deposits. The Benefits Administration Committee may impose from time to time separate maximum deposit limits on Tax Deferred Deposits and Taxed Deposits and may apply different maximum deposit limits to different groups of Participants on the basis of their Compensation received in the immediately preceding and/or current Plan Year. The Benefits Administration Committee may, in its discretion, suspend or limit the percentage of Tax Deferred Deposits or Taxed Deposits elected by any or all Participants who are Highly Compensated Employees to the extent the Committee deems necessary. Any such suspension or limitation may be imposed at any time during the Plan Year effective on the first day of the month following such imposition and shall continue in effect for as long as the Benefits Administration Committee shall determine. Whenever the limit imposed on either Tax Deferred Deposits or Taxed Deposits is later increased, the rate(s) of Deposits in effect during the limitation period will remain effective until changed by the Participant. At any time prior to the end of a Plan Year as to Deposits for such Year, the Benefits Administration Committee may, in its discretion, retroactively change, in whole or in part, the elections made by any or all Participants who are Highly Compensated Employees from Tax Deferred Deposits to Taxed Deposits to the extent then permitted under the Plan. Such change may be made without prior notice to affected Participants, but only if, and to the extent, the Benefits Administration Committee deems it necessary to comply with requirements of the Code. Recharacterized Excess Contributions shall be subject to the nonforfeitability requirements and distribution limitations applicable to Tax Deferred Deposits. The Benefits Administration Committee shall be permitted to take any and all actions permitted by Section 401(k)(8) and 401(m)(6) of the Code and the regulations thereunder in order to have the Plan comply with the actual deferral percentage and contribution percentage requirements of Section 401(k)(3)) and 401(m)(2) of the Code, respectively, for such Plan Year, to the extent such requirements apply.

3.3 Change in Deposit Rates

At any time after enrollment, a Participant may elect (i) to discontinue Deposits under the Plan, (ii) to increase or decrease his future Deposits to any other percentage then permitted under the Plan or (iii) to change the percentage of either or both of his Tax Deferred Deposits or Taxed Deposits to any other percentage then permitted under the Plan. Any such election shall be made in accordance with procedures approved by the Benefits Administration Committee and shall be effective as soon as practicable.

3.4 Payments to Trust

The Company and each adopting Employer shall forward Deposits to the Trustee as soon as practicable.

3.5 Annual Limit on Tax Deferred Deposits

No Participant shall be permitted to have Tax Deferred Deposits made under this Plan in excess of the dollar limitation contained in Section 402(g) of the Code in effect for such taxable year, except to the extent permitted under Section 414(v) of the Code, if applicable. The limitation set by this Section applies on an individual basis to all elective deferrals (within the meaning of Section 401(k) of the Code) made by each Participant during a year under this or any other qualified plan of the Employer.

It shall be the responsibility of each Participant to coordinate his or her salary deferrals as needed to meet this limit in connection with any other plan or plans not sponsored by the Employer. The Benefits Administration Committee will not take account of deferrals made to any other plan not sponsored by an Employer.

Notwithstanding any other provision of the Plan, the Participant may state a claim for the return of Excess Deferrals and such Excess Deferrals and the gain or loss allocable thereto shall be distributed if administratively practicable during the calendar year in which such Excess Deferrals are made or the calendar year following the calendar year in which such Excess Deferrals are made, but no later than the April 15 following the calendar year for which such allocable Excess Deferrals are made. The Participant's claim shall be in writing; shall be submitted to the Benefit Administration Committee no later than March 1; shall specify the Participant's Excess Deferrals for the preceding calendar year; and shall be accompanied by the Participant's written statement that if such amounts are not distributed, such Excess Deferrals, when added to amounts deferred under other plans or arrangements described in Sections 401(k), 408(k) or 403(b) of the Code, exceed the limit imposed on the Participant by Section 402(g) of the Code for the year in which the deferral occurred. If a Participant has Excess Deferrals, taking into account only elective deferrals under the Plan and other plans of the Employer, the Participant is deemed to have notified the Plan of such Excess Deferrals in accordance with the terms of this paragraph, and such Excess Deferrals shall be distributed, in accordance with the terms of this paragraph.

The Excess Deferrals shall be adjusted for gain or loss. The gain or loss allocable to Excess Deferrals for the Participant's taxable year shall be determined by multiplying the gain or loss allocable to the Participant's Tax Deferred Deposits for the taxable year by a fraction, the numerator of which is the Excess Deferrals on behalf of the Participant for the taxable year, and the denominator of which is the sum of (1) the Participant's Account attributable to Tax Deferred Deposits as of the beginning of the taxable year, plus (2) the Participant's Tax Deferred Deposits for the taxable year.

If Excess Deferrals have previously been distributed within the Plan Year, then the Plan shall offset such distribution from the amount of the Participant's Excess Contributions to be distributed for such Plan Year. In addition, the amount of Excess Deferrals that may be distributed for a Participant by the Plan for a Plan Year shall be reduced by the amount of Excess Contributions previously distributed for such Plan Year.

3.6 Deferral Percentage Limitation

Subject to the special rules of Section 3.7, and at such intervals as it shall deem proper, the Benefits Administration Committee shall review the Deposit election of each Participant who has not completed a Year of Eligibility Service in order to ensure that the Tax Deferred Deposits with respect to such Participants satisfy one of the following tests:

(A) The Average Actual Deferral Percentage for such Participants who are Highly Compensated Employees for the Plan Year shall not exceed the Average Actual Deferral Percentage for such Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 1.25; or

(B) The Average Actual Deferral Percentage for such Participants who are Highly Compensated Employees for the Plan Year shall not exceed the Average Actual Deferral Percentage for such Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 2, provided that the Average Actual Deferral Percentage for such Participants who are Highly Compensated Employees does not exceed the Average Actual Deferral Percentage for such Participants who are Nonhighly Compensated Employees for the Plan Year by more than two (2) percentage points.

To the extent required by regulations or other Internal Revenue Service rulings of general applicability, the Average Actual Deferral Percentage for Participants who are Nonhighly Compensated Employees for the Plan Year shall be adjusted, as required by such regulations or other rulings of general applicability, to reflect a change in the group of eligible Employees under the Plan on account of (i) establishment or amendment of a plan, (ii) plan merger, consolidation or spin-off, (iii) a change in the way plans are aggregated or separated for purposes of performing the tests described in (A) and (B) above or (iv) any combination of the above.

3.7 Special Rules on Deferral Percentage Limitations

(A) For purposes of this Article, the Actual Deferral Percentage for any Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Tax Deferred Deposits allocated to his account under two or more plans or arrangements described in Section 401(k) of the Code that are maintained by an Employer shall be determined as if all such Tax Deferred Deposits were made under a single arrangement. If a Highly Compensated Employee participates in two or more plans or arrangements described in Section 401(k) of the Code that have different plan years, all such arrangements ending with or within the same calendar year shall be treated as a single arrangement.

(B) In the event that this Plan satisfies the requirements of Sections 401(k), 401(a)(4) or 410(b) of the Code only if aggregated with one or more other plans, or if one or more plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this section shall be applied by determining the Actual Deferral Percentage of Employees as if all such plans were a single plan. Plans may be aggregated in order to satisfy Section 401(k) of the Code only if they have the same plan year, but the Plan may only be aggregated with a plan that uses the "current year" testing method.

(C) The Plan may be disaggregated into two or more plans or the Plan may be aggregated with one or more other plans, to the extent permitted by Sections 401(k), 401(a)(4) and 410(b) of the Code and the regulations thereunder.

(D) For purposes of determining a Participant's Actual Deferral Percentage, Tax Deferred Deposits must be made before the last day of the twelve month period immediately following the Plan Year to which those contributions relate.

(E) Excess Annual Additions distributed to Participants in accordance with Section 4.6 shall be disregarded for purposes of applying the tests of Section 3.6.

(F) Excess Deferrals of Nonhighly Compensated Employees shall be disregarded to the extent such Excess Deferrals are prohibited under Code Section 401(a)(30).

(G) The determination and treatment of the Actual Deferral Percentage of any Participant shall satisfy such other requirements as may be prescribed by the Secretary of the Treasury.

3.8 Adjustment of Deferrals

(A) In the event the Benefits Administration Committee determines that one of the tests set forth in Section 3.6 is not satisfied at the time of its review hereunder, or is likely not to be satisfied by the end of the Plan Year, it may require, in accordance with Section 3.2, that one or more Participants adjust their Deposit Election as of the first pay period in the month next following receipt of the test results, in order that one of the tests set forth in Section 3.6 is thereafter satisfied, or, to the extent permitted by law, the Benefits Administration Committee shall have the power and authority to return all or any part of the Tax Deferred Deposits of one or more Participants in cash within two and one-half months after the end of the Plan Year but in no instance later than the last day of the Plan Year following the Plan Year for which the Excess Contributions were made, solely to the extent necessary to satisfy one of the tests set forth in Section 3.6.

(B) The Excess Contributions shall be adjusted for gain or loss. The gain or loss allocable to Excess Contributions for the Plan Year shall be determined by multiplying the gain or loss allocable to the Participant's Tax Deferred Deposits and amounts treated as Tax Deferred Deposits for the Plan Year by a fraction, the numerator of which is the Excess Contributions on behalf of the Participant for the Plan Year and the denominator of which is the sum of (1) the Participant's Account attributable to Tax Deferred Deposits and amounts treated as Tax Deferred Deposits as of the beginning of the Plan Year plus (2) the Participant's Tax Deferred Deposits and amounts treated as Tax Deferred Deposits for the Plan Year.

Notwithstanding the foregoing, except with respect to the two taxable year period beginning January 1, 2006, no gain or loss shall be allocated to Excess Contributions for the period between the end of the taxable year and the date of the corrective distribution.

(C) Any distribution of Excess Contributions for any Plan Year shall be made to Highly Compensated Employees in accordance with Code Section 401(k)(8)(C) and the rulings and regulations thereunder. If, after performance of the two tests in Section 3.6, the deferral percentage test would still be violated as of the end of the Plan Year, then notwithstanding any other provision hereof, every Tax Deferred Deposit included in the Actual Deferral Percentage for a Participant who is a Highly Compensated Employee and whose Actual Deferral Percentage is greater than the permitted maximum shall be revoked to the extent necessary to comply with such deferral percentage limitation of Section 3.6 and the amount of such Tax Deferred Deposits, to the extent revoked, shall constitute an Excess Contribution to be distributed to such Participant (with earnings thereon as calculated in Section 3.8(B)) no later than the last day of the Plan Year following the Plan Year for which such contribution was made. Excess Contributions are allocated to the Highly Compensated Employees with the largest amounts of Tax Deferred Deposits (and Employer contributions, as applicable), which are taken into account in calculating the deferral percentage limitation for the Plan Year in which the excess arose, beginning with the Highly Compensated Employee with the largest amount of such Tax Deferred Deposits (and Employer contributions, as applicable), and continuing in descending order until all Excess Contributions have been allocated. For purposes of the preceding sentence, the “largest” amount is determined after distribution of any amounts distributed hereunder pursuant to Section 3.5 hereof.

3.9 Qualified Military Service

(A) Notwithstanding any other provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.

(B) The designated beneficiary of a Participant who dies while performing qualified military service (as defined under section 414(u) of the Code) shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Participant died as an Employee, in accordance with section 401(a)(37) of the Code.

3.10 Catch-Up Contributions

All Participants who are eligible to make elective deferrals under the Plan and who have attained age 50 before the close of the Plan Year shall be eligible to make Catch-Up Contributions in accordance with, and subject to the limitations of, section 414(v) of the Code. Catch-Up Contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of sections 402(g) and 415 of the Code. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of section 401(k)(3), 401(k)(11), 401(k)(12), 410(b), or 416 of the Code, as applicable, by reason of the making of such Catch-Up Contributions.

Article 4

EMPLOYER CONTRIBUTIONS

4.1 Employer Matching Contributions

(A) Each Employer shall contribute an Employer Matching Contribution for its Senior Associates who have elected to make Deposits. The amount of the Employer Matching Contribution made pursuant to this Section shall be equal to the sum of (i) one hundred percent (100%) of the Deposits made by the Senior Associate up to three percent (3%) of Compensation, and (ii) fifty percent (50%) of the Deposits made by the Senior Associate that exceed three percent (3%), up to a maximum of five percent (5%) of Compensation. For this purpose, Compensation shall mean the Compensation used to determine the contributions made by, or on behalf of, the Senior Associate for the same period. If a Senior Associate makes Tax Deferred Deposits, Catch-Up Contributions, and/or Taxed Deposits in a pay period, Tax Deferred Deposits shall be matched first, Catch-Up Contributions next, and Taxed Deposits last.

(B) All Employer Matching Contributions shall be made in cash and invested in accordance with the provisions of Article 6 and shall be made in cash.

(C) Employer Matching Contributions shall be nonforfeitable when made and shall be subject to the same distribution requirements as Tax Deferred Deposits, except that such contributions may not be distributed as a hardship withdrawal.

(D) For purposes of this Section, the amount of the Employer Matching Contribution to be allocated to a Participant initially shall be determined for each separate pay period, based solely on the Compensation, Tax Deferred Deposits, Catch-up Contributions, and Taxed Deposits of the Participant in that pay period. Then, as of the end of the Plan Year, the Participant may become eligible for an additional allocation of Employer Matching Contributions, based on the Participant's Compensation, Tax Deferred Deposits, Catch-up Contributions, and Taxed Deposits in that Plan Year.

4.2 Percentage Limitation on Taxed Deposits

At such intervals as it shall deem proper, the Benefits Administration Committee shall review the Taxed Deposits and, in the case of a Participant who has not completed a Year of Eligibility Service, the Employer Matching Contributions made for Participants in order to ensure that such contributions satisfy one of the following tests:

(A) The Average Contribution Percentage for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the Average Contribution Percentage for Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 1.25; or

(B) The Average Contribution Percentage for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the Average Contribution Percentage for Participants who are Nonhighly Compensated Employees for the Plan Year multiplied by 2, provided that the Average Contribution Percentage for Participants who are Highly Compensated Employees does not exceed the Average Contribution Percentage for Participants who are Nonhighly Compensated Employees for the Plan Year by more than two (2) percentage points.

To the extent required by regulations or other Internal Revenue Service rulings of general applicability, the Average Contribution Percentage for Participants who are Nonhighly Compensated Employees for the Plan Year shall be adjusted, as required by such regulations or other rulings of general applicability, to reflect a change in the group of eligible Employees under the Plan on account of (i) establishment or amendment of a plan, (ii) plan merger, consolidation or spin-off, (iii) a change in the way plans are aggregated or separated for purposes of performing the tests described in (A) and (B) above or (iv) any combination of the above.

4.3 Special Rules for Contribution Percentage Limit Testing

(A) The Plan may be disaggregated into two or more plans or the Plan may be aggregated with one or more other plans, to the extent permitted by Sections 401(m), 401(a)(4) and 410(b) of the Code and the regulations thereunder.

(B) Excess Annual Additions distributed to Participants in accordance with Section 4.6 shall be disregarded in applying the tests of Section 4.2.

(C) The determination and treatment of the Contribution Percentage of any Participant shall satisfy such other requirements as may be prescribed by the Secretary of the Treasury.

4.4 Adjustments To Excess Aggregate Contributions

(A) Excess Aggregate Contributions, plus any gain and minus any loss allocable thereto, shall be forfeited, if forfeitable, or if not forfeitable, shall be distributed in cash to Highly Compensated Employees within two and one-half months after the end of the Plan Year but in no instance later than the last day of the Plan Year following the Plan Year for which the Excess Aggregate Contributions were made.

(B) The Excess Aggregate Contributions shall be adjusted for gain or loss. The gain or loss allocable to Excess Aggregate Contributions for the Plan Year shall be determined by multiplying the gain or loss allocable to the Participant's Taxed Deposits for the Plan Year by a fraction, the numerator of which is the Excess Aggregate Contributions on behalf of the Participant for the Plan Year and the denominator of which is the sum of (1) the Participant's Account attributable to Taxed Deposits as of the beginning of the Plan Year plus (2) the Participant's Taxed Deposits for the Plan Year.

Notwithstanding the foregoing, no gain or loss shall be allocated to Excess Aggregate Contributions for the period between the end of the taxable year and the date of the corrective distribution.

(C) Any distribution of Excess Aggregate Contributions for any Plan Year shall be made to Highly Compensated Employees in accordance with Code Section 401(m)(6)(C) and the rulings and regulations thereunder. If, after performance of the percentage limitation in Section 4.2, the contribution percentage test would still be violated as of the end of the Plan Year, then notwithstanding any other provision hereof, every Employer Matching Contribution and Taxed Deposit included in the Average Contribution Percentage for a Highly Compensated Participant whose Average Contribution Percentage is greater than the permitted maximum shall automatically be revoked to the extent necessary to comply with such contribution percentage test of Section 4.2 and the amount of such contribution, to the extent revoked, shall constitute an Excess Aggregate Contribution to be distributed to such Participant (with earnings thereon as calculated in Section 4.4(B)) or forfeited, if applicable, no later than the last day of the Plan Year following the Plan Year for which such contribution was made. Excess Aggregate Contributions are allocated to the Highly Compensated Employees with the largest amounts of Employer Matching Contributions and Taxed Deposits (and Employer contributions, as applicable), taken into account in calculating the contribution percentage test for the Plan Year in which the excess arose, beginning with the Highly Compensated Employee with the largest amount of such Employer Matching Contributions and Taxed Deposits (and Employer contributions, as applicable), and continuing in descending order until all excess Aggregate Contributions have been allocated. For purposes of the preceding sentence, the "largest amount" is determined after first determining required distributions under Section 3.5 hereof, and then determining Excess Contributions under Section 3.8(C).

4.5 Retirement Contributions

(A) For the Plan Year beginning on January 1, 2003, each Employer shall make, on behalf of its Employees who are Participants eligible to share hereunder and subject to the otherwise applicable limitations of the Plan, a nondiscretionary

Retirement Contribution. The Retirement Contribution made on behalf of a Participant who is eligible to share in the Retirement Contribution hereunder shall be equal to the sum of such Participant's Allocable Points as of the last day of the Plan Year multiplied by such Participant's Compensation for the Plan Year and divided by one hundred. Allocable Points shall be determined in accordance with Tab A set forth below. To be eligible to share in the Retirement Contribution provided by this Section, the Participant either must not have Separated from Service during the Plan Year or must have Separated from Service in such Plan Year by reason of death, Total and Permanent Disability or retirement on or after Normal Retirement Age

TABLE A

ALLOCABLE POINTS

Participant's Age	Allocable Points
40-44	1
45-49	2
50-54	3
55-59	4
60 and up	5

Participant's Years of Vesting Service	Allocable Points
0-9	1
10-14	2
15-19	3
20-24	4
25-29	5
30 - 34	6
35 and up	7

For purposes of Table A, "Age" is the Participant's age at last birthday on the applicable Allocation Date. Further, for purposes of Table A, a Participant's Years of Vesting Service will be equal to his full Years of Vesting Service completed as of the applicable Allocation Date.

"Allocation Date" means December 31, 2003 or, for the allocation provided under Subsection (E), December 31, 2004.

(B) In the event the allocation of Retirement Contributions would result in a discriminatory allocation in violation of Treasury Regulation 1.401(a)(4)-1(b), or any other applicable tax qualification requirement, the Benefits Administration Committee shall reduce, in any manner it determines in its discretion to be equitable, the amount of Retirement Contributions which would otherwise be allocated to Participants who are Highly Compensated Employees for such Plan Year, in order to satisfy such requirements.

(C) All Retirement Contributions shall be made in cash and invested in accordance with the provisions of Article 6.

(D) All Retirement Contributions shall be conditioned on their deductibility under Section 404 of the Code. Retirement Contributions shall be made when directed by the Board of Directors, but not later than the time prescribed by law, including extensions, for filing the income tax return of the Employer for the Employer's taxable year for which such contributions are deductible.

(E) For the Plan Year beginning January 1, 2004, a Retirement Contribution determined as provided above, reduced, but not below zero, by the amount, if any of the Discretionary Profit Sharing Contribution allocated to a Participant, shall be made to each Participant who satisfies each of the following conditions: (i) the Participant was a Participant on December 31, 2003, (ii) the Participant remained an Employee continuously from that date through and including December 31, 2004, and (iii) the Participant was never a Highly Compensated Employee during that Plan Year.

(F) No Retirement Contribution shall be made for any Plan Year beginning on or after January 1, 2005.

4.6 Overall Limitation on Annual Additions

Any other provision of this Plan notwithstanding, in no event shall the total amount allocated to a Participant's Account under the Plan for any Limitation Year, exceed the limitations imposed under Code Section 415, the provisions of which are incorporated into the Plan by reference. For this purpose, the Limitation Year shall be the Plan Year and any and all adjustments needed to comply with these limits will be made under this Plan.

If, as a result of the allocation of forfeitures, a reasonable error in estimating a Participant's annual Compensation, a reasonable error in determining the amount of Tax Deferred Deposits that may be made with respect to any individual under the limits of Code Section 415, or under other limited facts and circumstances that the Commissioner finds justifies this method of allocation, the Annual Addition for a particular Participant would cause the limitations of Code Section 415 applicable to that Participant for the Limitation Year to be exceeded, the excess amounts shall not be deemed an Annual Addition in that Limitation Year and for contributions other than Tax Deferred Deposits and/or Taxed Deposits, such contributions shall be withheld or taken from a Participant's Account and held in a suspense account to be used to reduce future contributions for the Participant (or, if the Participant ceases to be an Employee, for remaining active Participants) in succeeding Limitation Years, as necessary, and, for Tax Deferred Deposits and/or Taxed Deposits, such Deposits (together with allocable income) shall be distributed to the Participant. The Plan will distribute Roth Elective Deferrals first, to the extent such types of deferrals were made for the year.

4.7 Timing of Employer Contributions

The Employer shall forward Employer Matching Contributions, Retirement Contributions, and Discretionary Profit Sharing Contributions to the Trustee for investment in the Trust Fund at such times as the Employer shall determine, but not later than the time prescribed by law, including extensions, for filing the income tax return of the Employer for the Employer's taxable year for which such contributions are deductible.

4.8 Discretionary Profit Sharing Contributions

The Board of Directors may, in its sole discretion, authorize a supplemental contribution to be made by each Employer on behalf of its Employees who are eligible to share in such contribution, as hereinafter provided. By way of example and not limitation, eligibility may be limited to Participants' employed in a particular line of business. The Contribution shall be referred to as a Discretionary Profit Sharing Contribution and shall be allocated to each eligible Participant who has not Separated from Service on or before the last day of the Plan Year with respect to which the Discretionary Profit Sharing Contribution is declared or who had Separated from Service in such Plan Year by reason of death, Total and Permanent Disability or retirement on or after Normal Retirement Age. The Board of Directors shall normally determine the amount of the Discretionary Profit Sharing Contribution, if any, after it has reviewed the Company's financial performance for the Plan Year; and Participants shall be informed of the amount of the contribution prior to the date of allocation. The Discretionary Profit Sharing Contribution shall satisfy all applicable requirements of the Code, shall be conditioned on its immediate deductibility under Code Section 404, and, subject to the overall permitted disparity limits described below, shall be allocated to the eligible Participants' Accounts as follows:

STEP ONE: The Discretionary Profit Sharing Contribution shall be allocated to each eligible Participant's Account in the ratio that the sum of each Participant's Compensation and Compensation in excess of the taxable wage base in effect under section 230 of the Social Security Act at the beginning of the Plan Year (the "TWB") bears to the sum of all Participants' Compensation and Compensation in excess of the TWB, but not in excess of the Maximum Excess Allowance. For this purpose, the Maximum Excess Allowance shall be exceeded to the extent that the percentage of Compensation which is contributed with respect to that portion of each Participant's Compensation in excess of the TWB (the "excess contribution percentage") exceeds the percentage of Compensation contributed with respect to that portion of each Participant's Compensation not in excess of the TWB (the "base contribution percentage"), by the lesser of (A) the base contribution percentage, or (B) the greater of (i) 5.7 percentage points, or (ii) the percentage equal to the portion of the rate of tax under Code section 3111(a) (in effect as of the beginning of the year) which is attributable to old age insurance.

STEP TWO: Any remaining Discretionary Profit Sharing Contribution shall be allocated to each Participant's account in the ratio that each Participant's Compensation for the Plan Year bears to all Participants' Compensation that year.

Overall Permitted Disparity Limits

Annual overall permitted disparity limit: Notwithstanding the preceding paragraphs, for any Plan Year a Discretionary Profit Sharing Contribution is allocated to any Participant who benefits under another qualified plan or simplified employee pension, as defined in § 408(k) of the Code, maintained by the Employer that provides for permitted disparity (or imputes disparity), the contribution will be allocated to the account of such Participant in the ratio that such Participant's total Compensation bears to the total Compensation of all Participants.

Cumulative permitted disparity limit: The cumulative permitted disparity limit for a Participant is 35 total cumulative permitted disparity years. Total cumulative permitted years means the number of years credited to the Participant for allocation or accrual purposes under this Plan, any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the Employer. For purposes of determining the Participant's cumulative permitted disparity limit, all years ending in the same calendar year are treated as the same year. However, a Participant who has not benefited under a defined benefit plan or a target benefit plan maintained by the Employer for any Plan Year beginning on or after January 1, 1994, has no cumulative permitted disparity limit.

4.9 Qualified Non-Elective Contributions

The Company and each Employer may make additional discretionary contributions (hereinafter "Qualified Non-Elective Contributions") allocable to Nonhighly Compensated Employees for purposes of ensuring that the Plan satisfies the applicable requirements of Code sections 401(k)(3) and 401(m)(3). Any such contributions shall satisfy the applicable requirements of Treas. Reg. Section 1.401(k)-1 and Treas. Reg. Section 1.401(m)-1, the provisions of which are incorporated by reference for this purpose.

Article 5

PARTICIPANTS' ACCOUNTS AND INVESTMENT ELECTIONS

5.1 Separate Accounts

The Benefits Administration Committee shall maintain, or cause to be maintained, a separate account for each Participant which shall consist of his Personal Account, Company Account and Rollover Account, if any. A Participant's Personal Account shall have separate subaccounts for amounts attributable to Tax Deferred Deposits, Roth Elective Deferrals, Taxed Deposits, and Catch-Up Contributions. A Participant's Company Account shall have separate subaccounts for amounts attributable to Employer Matching Contributions, Retirement Contributions, and Discretionary Profit Sharing Contributions. A Participant's Company and Personal Accounts shall have, if applicable, separate subaccounts for amounts accumulated under plans merged into the Plan. Each such account and subaccount will be considered a subaccount of the Participant's Account.

5.2 Valuation of Funds

There shall be determined as of each Valuation Date the fair market value of all assets held in the Trust Fund. Such valuation shall be determined in accordance with the principles of Section 3(26) of ERISA and the regulations thereunder and shall give effect to brokerage fees, transfer taxes, contributions, earnings, gains and losses, forfeitures, expenses, disbursements, and all other transactions during the valuation period since the preceding Valuation Date.

In making such determinations and in crediting net appreciation or depreciation and all other applicable adjustments to a Participant's Account, the Benefits Administration Committee may employ such accounting methods as the Benefits Administration Committee may deem

appropriate in order to fairly reflect the fair market value of the Plan assets and each Participants' Account. If Investment Funds are established, the valuation of a Participant's individual Account shall reflect such Participant's investment elections. For this purpose, the Benefits Administration Committee may rely upon information provided by the Trustee, the investment manager, or other persons believed by the Benefits Administration Committee to be competent.

5.3 Investment Election

If Investment Funds are established, a Participant shall make an investment election which shall cover his Deposits, Rollover Contributions, and Company Contributions. The investment election shall be for a percentage amount, in one percent (1%) increments, to be invested in one or more of the Investment Funds.

Each Participant is solely responsible for the selection of his investment options. The Trustee, the Investment Committee, the Benefits Administration Committee, the Employer and the officers, supervisors and other employees of the Employer are not empowered to advise a Participant as to the manner in which his Account shall be invested. The fact that an Investment Fund is available to a Participant for investment under the Plan shall not be construed as a recommendation for investment in that Investment Fund. In the event no election is made by a Participant, amounts available for election will be invested in the Investment Fund selected by the Investment Committee for this purpose.

5.4 Timing of Investment Election

The investment election must be made prior to the commencement of an Employee's participation in the Plan or at such other time as the Benefits Administration Committee shall establish and apply on a uniform basis. Any such election may be changed at such time and as frequently as shall be permitted by procedures established and applied by the Benefits Administration Committee on a uniform basis. Each such election or change in election shall be effective with respect to Deposits and Employer Matching Contributions made from or with respect to Compensation payable on the next payroll processing date after election by the Employee in accordance with procedures established by the Benefit Administration Committee and with respect to future Retirement Contributions and Discretionary Profit Sharing Contributions.

5.5 Transfer Between Investment Funds

A Participant may elect to transfer an amount equal to the value of all or part of his Account invested in any one or more of the Investment Funds to another one or more of such Investment Funds. Any such election shall be made in accordance with procedures established and applied by the Benefits Administration Committee on a uniform basis. Except as otherwise established pursuant to Section 5.6 below, the value of amounts transferred shall be determined as of the Valuation Date which is coincident with or next following the date of receipt of the Participant's election to transfer made in accordance with procedures established by the Benefits Administration Committee.

5.6 Special Valuation Date

If as a result of a transfer notice the Trustee executes investment elections on a date later than the otherwise applicable Valuation Date, the Benefits Administration Committee may establish an appropriate Valuation Date or Dates uniformly for similarly situated Participants in a manner which it deems appropriate to assure the equitable treatment of all Participants, those electing transfers as well as those having amounts in the Investment Funds from or to which the transfers are made.

Article 6

TRUST AGREEMENT

6.1 Trust Agreement

(A) The Company has entered or will enter into a Trust Agreement which shall be a part of the Plan. All contributions made pursuant to the provisions of the Plan shall be paid into the Trust Fund. All such payments and increments thereon shall be held and disbursed in accordance with the provisions of the Plan and Trust Agreement, as each shall be applicable under the circumstances. No person shall have any interest in, or right to, any part of the funds so held, except as expressly provided in the Plan or Trust Agreement.

(B) The Trustee shall have the exclusive authority and discretion to invest, manage and control the assets of the Plan, except to the extent that Participants have been given authority to direct their Accounts, to the extent the Investment Committee has allocated the authority to manage Plan assets to one or more investment managers (within the meaning of Section 3(38) of ERISA), or to the extent that the Investment Committee has given the Trustee direction with regard to the investment of Plan assets. Any investment manager appointed by the Investment Committee shall have the exclusive authority to manage, including the power to direct the acquisition and disposition of, the Plan assets assigned to it by the Investment Committee.

6.2 Establishment of Investment Fund(s)

The Trustee, at the direction of the Investment Committee, shall establish one or more Investment Funds having such investment objectives as may be ascribed to each such fund by the Investment Committee. The Trustee shall establish and maintain an Investment Fund for the purpose of allowing investment in common stock of the Company (herein referred to as the "ADS Stock Fund").

6.3 Voting and Tender of Shares

Consistent with ERISA Section 404(c), the following shall apply with respect to the investment by Participants and Beneficiaries in Company securities:

(1) Information provided to shareholders of such Company securities shall be provided to Participants and Beneficiaries with accounts holding such securities.

(2) Voting, tender and similar rights with respect to Company securities shall be passed through to Participants and Beneficiaries with accounts holding such securities. The Trustee shall vote or tender or take other similar action with respect to such shares solely in accordance with instructions furnished to it by each Participant or Beneficiary, in accordance with such procedures as are generally made available to shareholders. Shares, including fractional shares, for which instructions are not received by the Trustee shall not be voted or tendered.

(3) Information relating to the purchase, holding, and sale of Company securities, and the exercise of voting, tender and similar rights with respect to such securities, by Participants and Beneficiaries, shall be maintained in accordance with procedures which are designed to safeguard the confidentiality of such information, except to the extent necessary to comply with Federal laws or state laws not preempted by ERISA.

(4) The General Counsel of the Company shall be the fiduciary who is responsible for (i) ensuring that any procedures used are sufficient to safeguard the confidentiality of the information described in paragraph 3, (ii) such procedures are being followed, and (iii) the independent fiduciary required by paragraph (5), below, is appointed when necessary.

(5) An independent fiduciary shall be appointed to carry out activities relating to any situations which the fiduciary designated in accordance with paragraph (4), above, determines involve a potential for undue Employer influence upon Participants and Beneficiaries with regard to the direct or indirect exercise of shareholder rights.

6.4 Assumption of Risk by Participant

Each Participant (or Beneficiary) assumes the risk in connection with any decrease in value of his separate Account, and there shall be no liability under the Plan to a Participant in excess of the value of the assets in his Account.

Article 7

DEATH BENEFITS AND BENEFICIARY DESIGNATIONS

7.1 Death Benefits

(A) When a Participant has a Separation from Service by reason of death or dies after Separation from Service but before receiving benefits, the benefits shall be payable to the Beneficiary determined pursuant to Section 7.2.

(B) The payment of benefits shall be in lump sum payment and shall be made as soon as practicable after the Benefits Administration Committee receives a completed application that includes proof of the Participant's death.

(C) In no event, however, shall the payment of such benefits to a Beneficiary be made later than the date permitted under Section 401(a)(9) of the Code.

7.2 Designation of Beneficiary

A Participant, including one who has Separated from Service but has not received a distribution of his Plan benefits, may designate one or more Beneficiaries and one or more contingent Beneficiaries to receive upon his death a distribution of his Plan benefits in such proportion as such Participant designates. If, however, such a Participant is married on the date of his death, his Beneficiary shall be his Spouse unless a different Beneficiary designation was consented to by his Spouse. Such consent by the Participant's Spouse must be in writing, be irrevocable, and given prior to the Participant's death. Such consent must acknowledge the effect of the Participant's Beneficiary designation, specify the identity of the non-Spouse Beneficiary, including contingent Beneficiaries, if any, and the consent must be witnessed by a Plan representative or notary public. A Participant's Spouse must again consent, in accordance with the requirements applicable to the original consent, to any change in Beneficiary designation unless the original consent acknowledged that the Participant had the ongoing consent of his Spouse to make any such change. Upon a legal separation or dissolution of the marriage of a Participant, any designation of the Participant's former spouse as a Beneficiary, except as explicitly provided in a Qualified Domestic Relations Order, shall be treated as though the Participant's former spouse had predeceased the Participant unless, subsequent to the divorce or legal separation, the Participant executes another Beneficiary designation that complies with the Plan and that clearly names such former spouse as a Beneficiary.

Any consent by his Spouse shall be valid and effective only with respect to that Spouse. The consent of a Participant's Spouse shall not be required if (A) the Participant establishes to the satisfaction of the Benefits Administration Committee that consent cannot be obtained because the Spouse cannot be located or that there is no Spouse, or (B) the Participant and Spouse are legally separated or the Participant has been abandoned (within the meaning of local law) and the Participant has a court order to that effect; provided, however, that spousal consent in (B) above is required if required by a Qualified Domestic Relations Order. If the Spouse is legally incompetent to give consent, the Spouse's legal guardian (even if the guardian is the Participant) may give consent. If (1) an unmarried Participant fails to make a Beneficiary designation, or (2) there is some doubt or ambiguity as to the right to payment of any Beneficiary designated by the Participant, the Benefits Administration Committee shall direct the Trustee to pay the benefits otherwise distributable to the Participant's estate. In the event (1) all Beneficiaries predecease a Participant or die within 30 days after the Participant's death, or (2) there are two or more Beneficiaries, and one or more predeceases the other(s), the Benefits Administration Committee shall direct the Trustee to divide the remaining benefit equally between the remaining surviving Beneficiaries, or if none, to the Participant's estate.

VESTING AND TERMINATION OF EMPLOYMENT

8.1 Vesting in Personal Account and Rollover Account

A Participant shall at all times have a one hundred percent (100%) vested and nonforfeitable interest in his Personal Account and Rollover Account, if any.

8.2 Vesting in Company Account

Employer Matching Contributions made with respect to periods after January 1, 2004, shall be nonforfeitable. Subject to Section 8.3, a Participant shall have a vested and nonforfeitable right in his Company Account attributable to Employer Matching Contributions made with respect to periods prior to January 1, 2004, and any earnings or losses attributable thereto, in accordance with the following schedule:

Years of Vesting Service	Percentage Vested
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%
3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

Effective January 1, 2007, a Participant whose employment is terminated prior to attainment of his Normal Retirement Age (and for any reason other than death or Total and Permanent Disability), shall have a vested and nonforfeitable right in his Company Account attributable to Retirement Contributions and Discretionary Profit Sharing Contributions, and any earnings or losses attributable thereto, in accordance with the following schedule:

Years of Vesting Service	Percentage Vested
Less than 3	0%
3 or more	100%

Any amount remaining in a Participant's Company Account after his nonforfeitable percentage is determined upon his Separation from Service shall be forfeited by him as provided in Section 8.5. The forfeited amounts shall be held in the Forfeiture Account.

8.3 Vesting After Specified Events

Notwithstanding his Years of Vesting Service, a Participant who attains his Normal Retirement Age while in the service of an Employer shall be 100% vested in the balance in his Company Account. Moreover, if a Participant shall Separate from Service (1) because of Total and Permanent Disability, (2) because of death, or (3) because of the discontinuance (through no fault of his own) of the operation of a unit of an Employer in which he was employed or of the particular work in which he was engaged, as determined in its discretion by the Benefits Administration Committee, such Participant shall be 100% vested in the balance in his Company Account.

8.4 Distributions With Less Than 100% Vesting

If a Participant who is less than one hundred percent (100%) vested in his Company Account receives a distribution from such Company Account following termination of employment, then his vested interest in such Account upon reemployment prior to incurring five (5) consecutive One-Year Breaks in Service shall be equal to P(AB + R x D)) - R x D) where:

P is the vested percentage at the time at which the Participant's vested interest cannot increase;

AB is the account balance of the Company Account determined at the time at which the Participant's vested interest cannot increase;

D is the amount of the distribution; and

R is the ratio of the account balance of the Company Account determined at the time at which the Participant's vested interest cannot increase to such account balance determined after the distribution.

8.5 Forfeitures

If a Participant's employment is terminated, any portion of his Company Account in which the Participant does not have a nonforfeitable interest shall be forfeited as of the earlier of (i) the date he receives a distribution of any portion of his vested Accrued Benefit, or (ii) the first date he incurs five (5) consecutive One-Year Breaks in Service. If a Participant's employment terminates at a time when he has no vested interest in any portion of his Accrued Benefit, the Participant shall be deemed to have received a distribution of his entire Account balance upon his termination of employment.

If a Participant incurs a forfeiture under the preceding paragraph and again becomes an Employee prior to incurring five (5) consecutive One-Year Breaks in Service, the Employer shall reinstate (as of the Participant's Reemployment Commencement Date), the dollar amount of his Company Account forfeited, unadjusted for any gains or losses which occurred during said One-Year Breaks in Service. However, in the case of a Participant who received an actual distribution upon termination, the amounts forfeited will be reinstated only upon satisfaction of the following conditions:

(1) the Participant repays to the Plan the full amount of the distribution previously made to him, and

(2) the repayment is effected within five (5) years of the date on which he is credited with an Hour of Service for the performance of duties for an Employer.

The amount required to reinstate a forfeited Company Account shall be paid from the Forfeiture Account to the extent such Account is sufficient. To the extent the available forfeitures are insufficient to fully reinstate Participants' previously nonvested amounts, the Employer will make an additional contribution to the Plan sufficient to fully reinstate such amounts.

8.6 Distribution of Vested Benefits

Benefits payable in the case of a Participant whose employment is terminated shall be paid in accordance with Article 7 in the case of death, or Article 9 in the case of a Participant who retires or otherwise terminates employment with a vested benefit.

8.7 Forfeiture Account

The Trustee or its delegate shall establish and maintain in the Trust a Forfeiture Account for purposes of holding and investing amounts formerly allocated to individual Accounts of Participants but forfeited pursuant to this Article. All amounts credited to the Forfeiture Account shall be invested in an Investment Fund that emphasizes preservation of principal.

The Benefits Administration Committee may, in its discretion, apply amounts held in the Forfeiture Account (A) to restore amounts previously forfeited by Participants but required to be reinstated upon resumption of employment, (B) to pay Plan expenses, to the extent not paid by an Employer, (C) to correct an error made or resolve a claim filed under the Plan, or (D) to reduce any Employer contribution for the current or next succeeding Plan Year.

8.8 Service Upon Reemployment

Except as provided in Section 2.8, if a Participant has a Separation from Service and again becomes an Employee, his Years of Vesting Service completed before his reemployment will be included in determining his vested and nonforfeitable interest in his pre-break and post-break balances in his Company Accounts after he again becomes an Employee.

Except as provided in Section 2.8, if an Employee terminates employment before becoming a Participant and again becomes an Employee, he will receive credit for his prior Years of Vesting Service and Years of Eligibility Service.

Article 9

DISTRIBUTION OF BENEFITS

9.1 Vested Benefits

(A) A Participant who has a Separation from Service shall be entitled to a benefit equal to the vested interest in the balance in his Personal and Company Accounts determined pursuant to Article 8.

(B) Pursuant to the operation of Section 4.1, Section 4.5 and/or Section 4.8, a Participant may be entitled to receive an additional allocation after Separation from Service. The Participant's vested interest in such amount shall be subject to distribution pursuant to this Article 9 as of the Valuation Date coincident with or next following the Allocation Date as of which such amount is allocated to the Participant's Account.

(C) A Participant who incurs a Separation from Service (or the surviving Spouse of such Participant) and who has not given written consent to a distribution of benefits may elect a distribution from the Plan of all or any portion of his Account at any time. Each distribution request is to be made in accordance with procedures and rules promulgated by the Benefits Administration Committee. All such withdrawal requests are subject to the approval of the Benefits Administration Committee.

A withdrawal hereunder shall be made from the sources in the Account in the order determined by the Benefits Administration Committee.

9.2 Valuation Date

(A) For purposes of distributions, the value of a Participant's Account shall be determined on the Valuation Date following authorization of the distribution of such Account or a portion thereof by the Benefits Administration Committee.

The payment of a Participant's distribution shall be made as soon as practicable after such Valuation Date in the form of a lump-sum payment in cash. Notwithstanding the foregoing, a Participant who elects to invest a portion of his account in the ADS Stock Fund, may elect that all or a portion of his Account be distributed in shares of common stock of the Company; provided, however, that the value of any fractional shares shall be distributed in cash.

(B) Except as otherwise provided in Section 9.3 hereof, or unless a Participant otherwise elects, in no event shall the payment of benefits to a Participant who has a Separation from Service begin later than the 60th day after the latest of the close of the Plan Year in which (1) the Participant attains Normal Retirement Age, (2) occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan or (3) occurs the Participant’s Separation from Service.

9.3 Consent to Distribution of Benefits

The benefits payable to a Participant who has a Separation from Service other than because of death shall not be distributed unless the Participant first gives written consent to such distribution. Such written consent shall be provided by the Participant on a form required by the plan administrator. However, such consent shall not be necessary if the value of the Participant's vested benefits is $1,000 or less, determined without taking into account the value of the Participant’s Rollover Account. In that case, the Benefits Administration Committee shall direct the Trustee to cause the entire vested benefit to be paid to such Participant (or the Participant’s Beneficiary in the case of a deceased Participant) without regard to the Participant's election or the consent of said Participant's Spouse. In the event a Participant is to receive a distribution and subsequently is reemployed by the Company or other Employer before the distribution is made, such distribution shall not be made.

9.4 Deferral of Benefits

(A) The benefits of a Participant who has a Separation from Service other than because of death may be deferred to a date not later than that permitted under Section 401(a)(9) of the Code ("Deferred Distribution Date"). During such deferral period, the Participant shall not make any Deposits or, except as otherwise provided under the Loan Program, apply for a loan after his Separation from Service.

(B) In the event of the death of a Participant during the deferral period prior to distribution of all Plan benefits, the surviving Spouse shall have the right to defer all or any portion of the benefits payable to the surviving Spouse and shall be permitted to designate a Beneficiary to receive benefits in the event of such Spouse's death. If the Spouse fails to designate a Beneficiary or if the Beneficiary designated by the Spouse fails to survive the Spouse, any benefits payable because of the Spouse's death shall be paid to the Spouse's estate.

The Plan shall charge and collect a reasonable administrative maintenance fee, which may be adjusted from time to time, to be deducted from the Accounts of persons whose benefits are deferred.

9.5 Required Minimum Distributions

Any benefit provided under the Plan shall be subject to the requirements of Code Section 401(a)(9), the provisions of which are incorporated by reference, including, without limitation, the incidental death benefit requirement of Code Section 401(a)(9)(G). Distributions shall be made in accordance with this section and with Treas. Reg. Sections 1.401(a)(9)-2 through 1.401(a)(9)-9, which override any distribution provision in the Plan to the extent inconsistent. To summarize these requirements, the entire interest of each employee shall be distributed to such employee not later than the required beginning date, or will be distributed, beginning not later than the required beginning date, in accordance with such regulations, over the life of such employee or over the lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary). The term required beginning date means April 1 of the calendar year following the later of the calendar year in which the employee attains age 70½, or the calendar year in which the employee retires.

9.6 Notices to Participants; Distributions Within 30 Days

The Benefit Administration Committee shall provide to the Participant notices of the following: (1) deferral rights and information on optional benefits required by Section 1.411(a)-11(c) of Income Tax Regulations, and (2) a written explanation of the direct rollover and tax withholding information required by Section 402(f) of the Code. Such notices shall be provided to the Participant no earlier than 180 days and no less than 30 days before the Annuity Commencement Date.

If a distribution is one to which Sections 401(a)(11) and 417 of the Code do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that: (1) the plan administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and (2) the Participant, after receiving the notice, affirmatively elects a distribution.

Article 10

WITHDRAWALS WHILE EMPLOYED

10.1 Limits on Withdrawals

No withdrawals, other than withdrawals provided by this Article, shall be permitted prior to the Participant's Separation from Service. An active Participant who makes a withdrawal pursuant to Sections 10.2 and 10.3 may transfer all or any portion to a segregated subaccount (a “Roth Internal Conversion Rollover Account”). The surviving spouse of a Participant who died prior to incurring a Separation from Service shall have this same right.

10.2 Withdrawal of Taxed Deposits and Rollover Accounts

A Participant may elect, in accordance with procedures established by the Benefits Administration Committee, to withdraw from his Personal Account an amount in cash not exceeding the value of amounts attributable to his Taxed Deposits and amounts in his Rollover Account as of the date the withdrawal is requested in accordance with procedures established by the Benefits Administration Committee.

10.3 Withdrawal After Attainment of Age 59½

A Participant may elect at any time after the attainment of age 59½ to withdraw from his (i) Personal Account and (ii) Company Account an amount in cash not in excess of the vested value thereof determined as of the Valuation Date coincident with or next following the date on which the Participant requests a withdrawal in accordance with procedures established by the Benefits Administration Committee. A withdrawal hereunder shall be made from sources in the Account in the order determined by the Benefits Administration Committee.

10.4 Withdrawal to Alleviate Financial Hardship

A Participant, who does not have any amounts credited in his Account which are subject to withdrawal under Sections 10.2 or 10.3, may apply to the Benefits Administration Committee for approval to withdraw, as of the Valuation Date which is coincident with or next following the date of approval of such application by the Benefits Administration Committee, an amount in cash necessary to satisfy and alleviate a financial hardship. Such withdrawal may be made from the following sources in the Participant’s Account, and in the order determined by the Benefits Administration Committee: World Financial Network Plan Matching Account; HSI Prior Plan Match; World Financial Network Plan Retirement Account; Tax Deferred Deposits (but no earnings thereon); and HIS Prior Plan Pre-Tax Deferred Deposits.

The Benefits Administration Committee shall approve any such application only to relieve an immediate and heavy financial need of the Participant (including his Spouse, Beneficiary, or any dependent), but only in an amount not in excess of the amount required to relieve such financial need, and only if, and to the extent, such need cannot be satisfied from other resources reasonably available to him (including assets of his Spouse, Beneficiary, and minor children reasonably available to him). For purposes of this paragraph, an immediate and heavy financial need shall be limited to any one of the following circumstances: (a) medical expenses (within the meaning of Section 213(d) of the Code) incurred by the Participant, his Spouse, his Beneficiary, or any dependent, or amounts necessary for these persons to obtain medical care described in Code Section 213(d); (b) purchase (excluding mortgage payments) of the Participant's principal residence; (c) payment of tuition and related educational fees for the next 12 months of post secondary education for the Participant, his Spouse, his Beneficiary, or any dependent of the Participant (d) the need to prevent (i) the eviction of the Participant from his principal residence or (ii) the foreclosure on the mortgage of his principal residence; (e) payments for burial or funeral expenses for the employee's deceased parent, spouse, Beneficiary, child or other dependent); (f) expenses for the repair of damage to the employee's principal residence that would qualify for the casualty deduction under section 165 (determined without regard as to whether the loss exceeds 10% of adjusted gross income); and (g) such other immediate and heavy financial needs as determined by the Commissioner of the Internal Revenue Service and announced by publication of revenue rulings, notices, and other documents of general applicability.

A distribution will be deemed necessary to satisfy the immediate and heavy financial need of the Participant only if:

(A) the distribution is not in excess of the amount of the immediate and heavy financial need;

(B) the Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under all plans maintained by the Employer;

(C) the Plan, and all other plans maintained by the Employer, provide that the Participant's Tax Deferred Deposits and Taxed Deposits, if any, (except for mandatory after-tax employee contributions to a defined benefit plan) will be suspended for a six-month period after receipt of the hardship distribution; and

(D) the Plan, and all other plans maintained by the Employer, provide that the Participant may not make Tax Deferred Deposits for the Participant's taxable year immediately following the taxable year of the hardship distribution in excess of the applicable limit under Section 402(g) of the Code for such next taxable year less the amount of such Participant's Tax Deferred Deposits for the taxable year of the hardship distribution.

10.5 Loans Prior to Hardship Withdrawals

For purposes of Section 10.4 above, the Benefits Administration Committee shall grant a Participant's request for a hardship withdrawal only if the Participant borrows the maximum permissible amounts under the Employer's retirement plans to the extent such borrowings would not increase the Participant's financial need. The amount of the loan shall be the lesser of (i) the said maximum amount or (ii) the amount necessary to alleviate the hardship.

10.6 In-Service Withdrawals

A Participant whose Account includes amounts attributable to participation in the World Financial Network Plan may, while an Employee, receive a distribution of amounts attributable to his or her employer matching and retirement contribution accounts held under that plan as of December 31, 1997 (adjusted for subsequent income, expenses, gains and losses or any other applicable charge or credit), but only after becoming fully vested in such amounts and having participated in the Plan for at least five years. The Participant may receive no more than one such in-service distribution in any calendar year.

10.7 Withdrawal on Account of Disability

A Participant who has become disabled may apply for a distribution of his Account on the same basis as if he had a Separation from Service under Section 9.1. For this purpose, a Participant will be deemed to be disabled only if the Participant (1) has a Total and Permanent Disability, or (2) either qualifies to receive disability insurance benefits under the Company's Long Term Disability Plan or, if the Participant is not eligible to participate in such plan, would so qualify, as determined by the Benefits Administration Committee in its sole discretion.

Article 11

LOANS

The Benefits Administration Committee may, in its discretion, establish a program under the Plan to provide loans to Participants (the "Loan Program"). If so established, the Loan Program shall be embodied in a separate written document that is incorporated by reference into the Plan.

Article 12

ROTH ELECTIVE DEFERRALS

12.1 General Application

(A) Effective as of November 1, 2012, the Plan will accept Roth Elective Deferrals made on behalf of Participants. A Participant's Roth Elective Deferrals will be allocated to his or her Roth Elective Deferral Account.

(B) Except as specifically stated otherwise, Roth Elective Deferrals will be treated as Tax Deferred Deposits for all purposes under the Plan.

12.2 Separate Accounting

(A) Contributions and withdrawals of Roth Elective Deferrals will be credited and debited to the Roth Elective Deferral Account maintained for each Participant. No contributions other than Roth Elective Deferrals and properly attributable earnings will be credited to each Participant's Roth Elective Deferral Account.

(B) The Plan will maintain a record of the amount of Roth Elective Deferrals in each Participant's account.

(C) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Elective Deferral Account and the Participant's other accounts under the Plan.

12.3 Direct Rollovers

(A) Notwithstanding Article 19, a direct rollover of a distribution from a Roth Elective Deferral Account will only be made to another Roth Elective Deferral Account under an applicable retirement plan described in §402A(e)(1) or to a Roth IRA described in §408A, and only to the extent the rollover is permitted under the rules of §402(c).

(B) Notwithstanding Article 16, the Plan will accept a rollover contribution to a Roth Elective Deferral Account only if it is a direct rollover from another Roth Elective Deferral Account under an applicable retirement plan described in §402A(e)(1) and only to the extent the rollover is permitted under the rules of §402(c).

(C) The Plan will not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral Account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than $200 during a year. In addition, any distribution from a Participant's Roth Elective Deferral Account is not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than $200 during a year. However, eligible rollover distributions from a Participant's Roth Elective Deferral Account are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceeds $1,000 for purposes of mandatory distributions from the Plan.

(D) The provisions of the Plan that allow a Participant to elect a direct rollover of only a portion of an eligible rollover distribution but only if the amount rolled over is at least $500 is applied by treating any amount distributed from the Participant's Roth Elective Deferral Account as a separate distribution from any amount distributed from the Participant's other accounts in the Plan, even if the amounts are distributed at the same time.

12.4 Correction of Excess Contributions and Excess Deferrals

In the case of a distribution of Excess Contributions, Excess Deferrals, or both, the Plan will distribute Roth Elective Deferrals first, to the extent such types of deferrals were made for the year.

Article 13

ADMINISTRATION OF THE PLAN

13.1 Investment Committee

The Investment Committee shall have the responsibility for control and management of the assets of the Plan, and, subject to Section 6.1(B), shall also be the named fiduciary of the Plan, as provided for in ERISA, for control and management of the assets of the Plan. The Investment Committee shall consist of not less than three members who shall be appointed from time to time by the Board of Directors, which shall also determine which member shall serve as Chair, and shall serve at its pleasure, without compensation, unless otherwise determined by the Board of Directors. If otherwise eligible, the fact that an Employee is a member of the Investment Committee shall not preclude his participation in the Plan or acting as trustee of any of the funds under the Plan.

13.2 Operation of Investment Committee

The Investment Committee shall elect a Secretary, who may or may not be a member of the Investment Committee. The Investment Committee shall conduct its business and hold meetings as determined by it from time to time. As to all matters requiring the exercise of discretion, action shall be taken upon the agreement or direction of at least a majority of the Investment Committee. In lieu of a meeting, the Investment Committee may act by unanimous written consent. In the control and management of the assets of the Plan, the Investment Committee may:

(A) allocate among its members, and designate other persons to carry out, fiduciary and nonfiduciary responsibilities with respect to the control and management of Plan assets (other than trustee responsibilities as defined in Section 405(c)(3) of ERISA); and

(B) consult with legal counsel, who may be counsel to the Company.

13.3 Records of Investment Committee

The Investment Committee shall keep a record of all its proceedings.

13.4 Rights and Powers of Investment Committee

In carrying out its functions under the Plan, the Investment Committee shall have the right and power:

(A) to establish and implement overall investment objectives, philosophy, and policy relating to asset investment mix or to new investments for the Plan;

(B) to recommend to the Board of Directors adoption of significant investment-related amendments to the Plan;

(C) to appoint or remove the Trustees;

(D) to appoint, review the actions of, and remove the custodians and investment management consultants for the Plan;

(E) to appoint, review the actions of, and remove investment managers for the Plan, approve related fee arrangements (including estimated annual budget and controls relating to such expenses and fees), investment guidelines, and restrictions applicable to such managers;

(F) to approve, ratify, or oversee all investments made by investment managers who may be Employees or which may be subsidiaries or affiliates;

(G) to approve investment arrangements with insurance carriers, banks or financial institutions under the Plan;

(H) to approve all matters related to investment related transactions between the Plan and a party in interest (as defined in ERISA), where such approval is required by ERISA;

(I) to exercise such additional powers as are necessary in the judgment of the Investment Committee to carry out the above-mentioned responsibilities or as may from time to time be delegated to the Investment Committee by the Board of Directors.

13.5 Benefits Administration Committee

Administration of the payment of all benefits to Participants or their Beneficiaries and of the other functions vested by the Plan in the Benefits Administration Committee shall be the responsibility of the Benefits Administration Committee, which shall also be both the administrator and the named fiduciary of the Plan for the review of denied benefit claims, as those terms are defined in ERISA. As administrator of the Plan, the Benefits Administration Committee shall be responsible for compliance with the reporting and disclosure requirements of ERISA, and as named fiduciary for review of denied benefit claims, it shall have the power and duty to make the final determination under the Plan with respect to review of denied claims for Plan benefits. The Benefits Administration Committee shall consist of not less than three members who shall be appointed from time to time by the Board of Directors and shall serve at its pleasure. If otherwise eligible, the fact that an Employee is a member of the Benefits Administration Committee shall not preclude his participating in the Plan or acting as trustee of any funds under the Plan.

13.6 Operation of Benefits Administration Committee

The Benefits Administration Committee shall elect a Chairman from among its members and a Secretary, who may or may not be a member of the Benefits Administration Committee. The Benefits Administration Committee shall conduct its business and hold meetings as determined by it from time to time. As to all matters requiring the exercise of discretion, action shall be taken upon the agreement or direction of at least a majority of the Benefits Administration Committee. In lieu of a meeting, the Benefits Administration Committee may act by unanimous written consent. In the administration of the Plan, the Benefits Administration Committee may: (A) allocate among its members, and designate other persons to carry out, fiduciary and nonfiduciary responsibilities with respect to administration and review of denied benefit claims; and (B) consult with legal counsel, who may be counsel to the Company.

13.7 Records of Benefits Administration Committee

The Benefits Administration Committee shall keep a record of all its proceedings.

13.8 Rights and Powers of Benefits Administration Committee

The Benefits Administration Committee shall have full discretionary authority with respect to the exercise of the following rights and powers and the determination of any question related thereto, including a question of fact:

(A) to interpret the provisions of the Plan;

(B) to adopt such rules and regulations with regard to the administration of the Plan as are consistent with the terms of the Plan and of the trust agreement or agreements establishing the Trust and to determine the terms and provisions of the forms of statements, acceptances, consents, authorizations, elections, designations, and any other instruments to be executed and delivered by Participants as a condition of, or in order -to exercise, any rights under the Plan, and generally, to take all action which it is herein contemplated shall be taken by the Benefits Administration Committee;

(C) to determine the eligibility of Employees (including, whether an Employee is active, and the dates by which an eligible Employee shall be required to consent to the making of payroll deductions or reductions as a condition to commencing his or her participation in the Plan as of any specified date) and their Periods of Service, including, but without limitation, Hours of Service, One-Year Periods of Severance, Periods of Military Service, Years of Eligibility Service and Years of Vesting Service, and to require such proof from any Participant as it considers necessary to determine that such Participant has a condition of Total and Permanent Disability;

(D) to determine what constitutes Compensation;

(E) subject to the specific provisions of the Plan, to determine the times at which amounts shall be credited to the Company Accounts and Personal Accounts of Participants;

(F) to administer the Loan Program and to determine whether or not a withdrawal request of a Participant on the basis of financial hardship should be approved, and to require such proof from a Participant as it considers necessary to make any such determination;

(G) to determine the percentage of Compensation which a Participant may deposit under the Plan in respect of a Plan Year as provided in Section 3.2 of Article 3;

(H) to determine whether or not to suspend, limit or retroactively reduce the percentage of Tax Deferred or Taxed Deposits elected by any or all Participants who are "highly compensated employees" within the meaning of Section 414(q) of the Code and the duration of any such limitation imposed;

(I) to determine the disposition (including, in its discretion, whether to charge the amount against the amount of shares and cash in the Forfeiture Account) of clerical, arithmetical, and other errors made under the Plan or to resolve any claim filed under the Plan;

(J) to determine how the Plan should be administered to conform with law or to meet special circumstances not anticipated or not covered in the Plan; and

(K) to establish and administer procedures to determine whether domestic relations orders are qualified under Section 414(p) of the Code;

(L) to designate an Employer for purposes of Section 2.7(C) and arrange for a transfer of assets as provided therein;

(M) to direct the Trustee to return contributions as provided in Section 15.9; and

(N) to delegate to one or more persons other than members of the Benefits Administration Committee, or to authorize one or more members of the Benefits Administration Committee to act on its behalf to carry out, any duty or power which would otherwise be a responsibility, including a fiduciary responsibility, of the Benefits Administration Committee under the Plan and any reference in the Plan to tile Benefits Administration Committee shall include a reference to such delegatee(a) as is appropriate to the context.

13.9 Claims Procedures

Pursuant to procedures established by the Benefits Administration Committee, notice in writing shall be provided to any Participant (including any retired or former Participant) or Beneficiary whose claim for benefits under the Plan has been denied. Such notice shall be provided no later than 90 days after the claim was submitted (45 days if the claim relates to a Plan determination of disability ("disability claim"), subject to an extension of the same length. Such notice shall set forth the specific reason for such denial, shall be written in a manner calculated to be understood by the claimant, and, provided review is requested with 60 days (180 days in the case of a disability claim) after receipt by the claimant of written notification of denial of his claim shall afford a reasonable opportunity to any claimant whose claim for benefits has been denied for a full and fair review by the Benefits Administration Committee of the decision denying the Claim. All determinations of the Benefits Administration Committee shall be final, conclusive, and binding on all interested parties. No Benefits Administration Committee member shall be entitled to act on or decide any matter relating solely to himself or any of his rights under the Plan.

13.10 Indemnification

The Company shall indemnify and reimburse the members of the Board of Directors of the Company, the Investment Committee, and the Benefits Administration Committee and any other employee of an Employer who has been delegated any fiduciary responsibility in connection with the Plan, with respect to any action, inaction, or matter undertaken by such persons in good faith for or on behalf of the Plan or its participants which is consistent with the purposes of the Plan.

Article 14

AMENDMENT OR TERMINATION

14.1 Right to Amend

(A) The Board of Directors reserves the right, by duly authorized resolution, at any time and from time to time (and retroactively if deemed necessary or appropriate to meet the requirements of the Code, ERISA, or any similar laws, or the rules and regulations from time to time in effect under any of such laws or to conform with governmental regulations or other policies), to modify or amend, in whole or in part, any or all of the provisions of the Plan.

(B) No such modification or amendment, however, shall make it possible for any part of the corpus or income of the fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their beneficiaries under the Plan prior to the satisfaction of all liabilities with respect thereto. Moreover, no amendment or modification shall make it possible to deprive any Participant of a previously accrued benefit, except to the extent permitted by Section 412(c)(8) of the Code.

(C) Notwithstanding anything herein to the contrary, a representative of the Benefits Administration Committee may, at its direction, execute any amendment to the Plan that (1) reflects the terms of any agreements entered into by the Company relating to prior employee service required to be taken into account under the Plan pursuant to such agreements, or (2) which does not add materially to the cost of maintaining the Plan or affect Participants' rights under the Plan in a material way.

14.2 Right of Adoption and Termination

Any entity affiliated with the Company may adopt the Plan for the benefit of its employees. However, any such adoption must be approved by the Board of Directors. Furthermore, the Board of Directors retains the exclusive right and the power to terminate the Plan at any time with respect to any or all Employers.

14.3 Obligations Upon Merger, Consolidation or Transfer

In the event of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, each Participant shall be entitled to receive a benefit if the Plan were to terminate immediately after the merger, consolidation, or transfer, which is not less than the benefit he would have been entitled to receive if the Plan had terminated immediately before the merger, consolidation, or transfer.

In the event of the merger of any other qualified plan into the Plan, to the extent required by law, a Participant's Years of Vesting Service and Years of Eligibility Service under the Plan shall include the years of vesting service and the years of eligibility service standing to his credit under such merged plan on the day immediately preceding the day of such plan merger. Years of Vesting Service credited under this Section shall be credited only for purposes of determining a Participant's nonforfeitable percentage in his Accounts under Article 8 and shall not be credited for purposes of determining a Participant's Retirement Contribution under Article 4.

The merger of the Plan with any other plan shall not reduce or eliminate any benefit protected under Code Section 411(d)(6), except to the extent permitted by law.

14.4 Obligations Upon Termination, Partial Termination or Discontinuance

(A) While each Employer intends to continue the Plan indefinitely, nevertheless it assumes no contractual obligation as to the Plan's continuance. In the case of any termination, partial termination or complete discontinuance of contributions, each Participant who is then an Employee and who is affected by the termination, partial termination or complete discontinuance of contributions shall have a one hundred percent (100%) nonforfeitable interest in the value of all amounts credited to his Participant's Account.

(B) Upon a complete or partial termination of the Plan, whether in writing or in operation, subject to the right of the Board of Directors to amend the Plan to provide for a liquidation and distribution of the assets of the Plan

(i) the Benefits Administration Committee and the Investment Committee shall remain in existence, (ii) no further deposits or Company contributions shall be made under the Plan for affected Participants, (iii) all of the provisions of the Plan shall remain in full force and effect (other than the provisions for Deposits and Employer Contributions) and (iv) the amount in each affected Participant's Account shall continue to be held under the Plan, and shall be nonforfeitable.

14.5 Continued Funding After Plan Termination

Anything in the Plan to the contrary notwithstanding, no Employer, upon any termination or partial termination of the Plan, shall have any obligation or liability whatsoever to make any further payments to the Trustee for the benefit of Participants under the Plan, except for any contributions payable prior to any termination of the Plan. Except as provided in the foregoing, neither the Trustee, the Board of Directors, the Benefits Administration Committee, the Investment Committee, nor any Participant, Employee, nor beneficiary, shall have any right to compel an Employer to make any payment after the termination or partial termination of the Plan.

14.6 Distribution Upon Disposition of Assets

A Participant's Account may be distributed to the Participant as soon as administratively feasible after the sale or other disposition of at least 85 percent of the assets used by the Employer in the trade or business in which the Participant is employed if the purchaser does not maintain the Plan and if the Participant continues employment with the purchaser.

The Account of a Participant employed by a subsidiary of an Employer may be distributed to the Participant as soon as administratively feasible after the sale or other disposition of the Employer's interest in the subsidiary to an entity that is not a related Employer as long as the purchaser does not maintain the Plan and the Participant continues employment with such subsidiary.

14.7 Conversion Period

However, notwithstanding any provision of the Plan to the contrary, during any conversion period, in accordance with procedures established by the Employer, the Employer may temporarily suspend, in whole or in part, certain provisions of the Plan, which may include, but are not limited, a Participant’s right to change his Deposit Election, to change his investment election, to borrow or withdraw from his Account, or to obtain a distribution from his Account.

Article 15

GENERAL PROVISIONS

15.1 No Contract of Employment

Neither the establishment of the Plan nor any action hereafter taken by the Trustee, the Company, any other Employer, the Investment Committee or the Benefits Administration Committee shall. be construed as giving to any Employee the right to be retained in employment or, except as otherwise provided herein, any right or claim to any benefits under the Plan if discharged, unless the right to such benefits would have accrued if the Employee had at the time of such discharge voluntarily Separated from Service.

15.2 Incapacity

If the Benefits Administration Committee determines that any person entitled to any distribution under the Plan is a minor, or incompetent, or unable to care for his affairs by reason of a physical or mental disability, the Committee may direct the Trustee to pay such distribution in whole or in part, to any person who, in the Committee's opinion, is caring for or supporting the minor, incompetent or disabled person, unless a claim is made for such distribution by a duly appointed guardian or committee of such individual. The Benefits Administration Committee shall not have any responsibility to follow or oversee the applications of amounts so paid and such distribution shall be a complete discharge of any obligation to the extent of the amount distributed.

15.3 Payment Satisfies Claims

Any payment of a distribution under the Plan to any Participant, Beneficiary, legal representative or any guardian or committee appointed for such Participant or Beneficiary shall, to the extent of such payment, be in fall satisfaction of all claims against the Plan, Trustee, Company, an Employer, or Benefits Administration Committee. The Plan may require any recipient of a distribution to execute a receipt and release in such form as the Benefits Administration Committee determines.

15.4 Prescribed Forms

Except as provided in Section 15.5, all elections, authorizations, applications, and other actions required of Employees, Participants, or Beneficiaries under the Plan must, in order to be effective, be made in writing on forms prescribed for such purposes by the Benefits Administration Committee and delivered or communicated to the Benefits Administration Committee, as the Benefits Administration Committee may direct, by such dates as may be prescribed by the Benefits Administration Committee. Participants and Beneficiaries must furnish the Benefits Administration Committee such evidence or information, including change of address, as the Committee considered necessary or desirable for the purpose of administering the Plan and the benefits of each such person are conditioned upon prompt furnishing of all evidence or information requested.

15.5 Telephonic Voice Response Service or Electronic Systems

Notwithstanding anything in the Plan to the contrary, if so required by the Benefits Administration Committee, any election, application or authorization of an Employee, Participant, Beneficiary or Alternate Payee shall be made by the response of such person in compliance with the rules established by the Benefits Administration Committee with respect to such telephone voice response service or other electronic systems as may be established by the Benefits Administration Committee. Without limitation of the foregoing, responses on such voice response service or electronic systems may be directed to the Trustee or any agent designated by the Trustee or the Benefits Administration Committee, and persons shall be required to execute such forms as may be required by the Trustee or such agent in connection with establishing and controlling entry to such service.

Any such voice response service or other electronic systems shall provide for written confirmation to an Employee, Participant, Beneficiary or Alternate Payee of elections and authorization made thereunder, and elections and authorizations so made and so confirmed shall be binding on such person.

15.6 Temporary Investment of Assets

Any funds held in any account under the Plan or allocated to Participants and not yet invested as directed by the Participant or required by the Plan may, pending the disposition or investment of such funds, be temporarily invested in interest-bearing obligations of a short-term nature. For such purposes, funds may be commingled.

15.7 Attainment of Age

A Participant shall be deemed to have attained a given age on the first moment of the anniversary of his birth corresponding to such age.

15.8 Alienation of Benefits

Except as provided in this Section and Section 18.1, or to the extent required by law, no benefit deliverable, transferable, or payable to a Participant under the Plan shall be subject in any manner to anticipation, assignment, pledge, alienation, or charge by any Participant, and any attempt so to anticipate, assign, pledge, alienate, or charge the same shall be void; nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, or torts of any Participant; nor shall any interest of any Participant under the Plan be subject to garnishment, attachment, lien, execution, or levy of any kind.

A Participant's benefit may be reduced if a court order or requirement to pay arises from: (1) a judgment of conviction for a crime involving the Plan; (2) a civil judgment (or consent order or decree) that is entered by a court in an action brought in connection with a breach (or alleged breach) of fiduciary duty under ERISA; or (3) a settlement agreement entered into by the Participant and either the Secretary of Labor or the Pension Benefit Guaranty Corporation in connection with a breach of fiduciary duty under ERISA by a fiduciary or any other person. The court order, judgment, decree, or settlement agreement must specifically require that all or part of the amount to be paid to the Plan be offset against the Participant's Plan benefits.

15.9 No Guarantee of Benefits by Company

Neither the Company nor any other Employer guarantees any of the benefits or payments provided under the Plan, but Employer Contributions once made shall be irrevocable. Except as provided herein or permitted from time to time by the Code or ERISA, no part of any of the funds in the possession of the Trustee shall revert to the Company or any other Employer or be diverted to or used for any purposes other than for the exclusive benefit of Participants and their

Beneficiaries; provided, however, that in the event that the Benefits Administration Committee shall direct the return of any contribution to the Trust Fund and shall certify with respect to such contribution that (i) such contribution has been made by an Employer by a mistake of fact, (ii) such contribution has been conditioned on initial qualification of the Plan under Section 401 of the Code and that such qualification has been denied or revoked, or (iii) such contribution has been conditioned upon the deductibility thereof under Section 404 of the Code and that such deduction has been disallowed or redetermined, the Trustee shall return such contribution (or the value thereof if less) to the Employer that made such contribution in accordance with such direction, but in no event shall any such return be made later than the expiration of one year following the payment of any such contribution in the case of a direction under (i) above, the denial or revocation of qualification in the case of a direction under (ii) above, or the disallowance or redetermination of the deduction in the case of a direction under (iii) above.

15.10 Payment of Expenses

Unless paid by an Employer, expenses of the Plan shall be paid out of the Trust.

15.11 Statement of Accounting

The Benefits Administration Committee will use its best efforts to furnish not less than once each calendar year to each Participant a statement of his Account, and shall furnish or make available at its offices copies of the statements of the Trustee with respect to the Trust. Any Participant desiring to make objection as to any matters covered by the statement of Account shall give written notice to the Benefits Administration Committee within 60 days after the date the statement was furnished to him. Failure to object within such period shall bar any right (except as otherwise required by ERISA) thereafter to object to any of the matters covered by such statement.

15.12 Plan May be Sued

The Plan may sue or be sued as an entity separate from the Company. Except as otherwise required by ERISA, every right of action by a Participant, former Participant or Beneficiary with respect to the Plan or Trust, irrespective of the place where such action may be brought, shall be barred after the expiration of three years from the date of Separation from Service of the Participant or the date of receipt of the notice of denial of a claim for benefits, if earlier.

15.13 Inability to Find Payee

If after 6 months, the Benefits Administrative Committee is unable, after reasonable effort, to ascertain the identity, whereabouts or existence of any Participant or Beneficiary to whom a benefit is payable under this Plan, or if the Plan has made a distribution, but the Participant or Beneficiary does not cash the distribution check, the benefits otherwise payable to the Participant or Beneficiary shall be forfeited, anything to the contrary contained elsewhere in this Plan notwithstanding; provided, however, that the dollar value of the Account so forfeited, unadjusted for earnings or losses, shall be reinstated if, at any time prior to the termination of the Plan, a claim is subsequently made by such Participant or Beneficiary or if proof of death of such person satisfactory to the Benefits Administrative Committee is received by the Benefits Administrative Committee. However, any benefits lost by reason of escheat under applicable state law shall be considered forfeited and shall not be subsequently reinstated.

15.14 State Law

Except to the extent preempted or superseded by Section 514 of ERISA, the Plan shall be construed and enforced according to the laws of the State of Delaware, and all the provisions thereof shall be administered according to the laws of said State (other than the conflicts of laws provisions).

15.15 Construction

In determining the meaning of any provisions of the Plan, words importing the masculine gender shall include the feminine and the singular shall include the plural, unless the context requires otherwise. Terms defined in Article 1 shall have a corresponding meaning when used in a different tense and, if defined in the singular, when used in the plural. Headings of Articles in the Plan are for convenience only and are not intended to modify or affect the meaning of the substantive provisions of the Plan.

Article 16

ROLLOVER CONTRIBUTIONS AND TRANSFERS

16.1 Rollover of Funds from Other Plans

In the event that an individual: (1) becomes an Employee other than an Employee described in Section 2.3; (2) has been a participant in an employer's plan described in Section 401(a) of the Code, which is exempt from tax under Section 501(a) of the Code; and (3) receives from such trust an eligible rollover distribution, as defined in Section 402(c)(4) of the Code, and, provided that such property consists of money, or, in the case of an Employee who became an Employee as a result of the Company's acquisition of his former employer, such property consists of money or money and a loan or loans from such former employer’s tax-qualified 401(k) plan, then, with the consent of the Benefits Administration Committee, the eligible Employee may rollover any portion of the distribution to this Plan on or before the sixtieth (60th) day after the day on which he received such property and, if the distribution includes a loan, on or before ninety (90) days of the date the Participant first became eligible to effect the rollover, subject to the Employee providing such information and documentation as the Benefits Administration Committee requires in order to determine the amount in an eligible rollover distribution under Section 402(c)(4) of the Code. Such rollover may be made even though such Employee has not satisfied the age and service requirements for Plan participation at such time. Furthermore, the eligible Employee may direct the prior trust to transfer any portion of the distribution directly to the Plan. Upon receipt by the Plan, such amount shall be credited to the Rollover Account established hereunder pursuant to Article 5. The eligible Employee shall have a one hundred percent (100%) vested and nonforfeitable right to all amounts credited to his Rollover Account as a result of such transfer.

16.2 Rollover of Funds from Conduit Individual Retirement Account (IRA)

In the event that an individual

(A) becomes an Employee other than an Employee described in Section 2.3, and

(B) has established an Individual Retirement Account or Individual Retirement Annuity (hereinafter collectively referred to as "IRA") described in Sections 408(a) and 408(b), respectively, of the Code, which IRA is comprised solely of amounts constituting a rollover contribution of an eligible rollover distribution, as defined in Section 402(c)(4) of the Code, from an employer's plan described in Section 401(a) of the Code, which is exempt from tax under Section 501(a) of the Code, or an annuity plan described in Section 403(a) of the Code, and

(C) received from such IRA the entire amount of the account or the entire value of the annuity, including any earnings on such sums, pursuant to Section 408(d)(3)(A)(ii) of the Code, then, with the consent of the Benefits Administration Committee, the eligible Employee may transfer the entire amount received in such distribution to this Plan (for the benefit of such individual) on or before the sixtieth (60th) day after the day on which he received such payment or distribution, and upon receipt by the Plan, such amount shall be credited to the Rollover Account established hereunder pursuant to Article 5. Such transfer may be made even though such Employee has not satisfied the age and service requirements for Plan participation at such time.

The eligible Employee shall have a one hundred percent (100%) vested and nonforfeitable right to all amounts credited to his Rollover Account.

16.3 Transfers Directly from Other Plans

There may be transferred directly from the trustee of any other qualified plan to the Trustee, subject to the approval of the Benefits Administration Committee and the Trustee, all or any of the assets, including after-tax contributions, if any, held (whether by trustee, custodian or otherwise) under the Plan for any eligible Employees (other than Employees described in Section 2.3); provided, however, that the transfer satisfies Section 411(d)(6) of the Code. Such transfer may be made even though such Employee has not satisfied the age and service requirements for Plan participation at such time. A separate account shall be established for such assets for each eligible Employee.

Notwithstanding the foregoing, an eligible Employee may not transfer any amount which, if transferred into this Plan would cause the Plan to be a direct or indirect transferee plan, within the meaning of Section 401(a)(11)(B)(iii)(III) of the Code and any regulations or rulings effective thereunder, of a plan described in Section 401 (a)(11)(B)(i) or (ii) of the Code. Transfers pursuant to this Section may be made regardless of whether the eligible Employee has satisfied any applicable eligibility service requirement of this Plan.

16.4 Mistaken Rollover

If it is determined that a Participants rollover contribution did not qualify under the Code for a tax free rollover, then as soon as reasonably possible the balance in the Participant's Rollover Account shall be:

(A) segregated from all other Plan assets,
(B) treated as a non-qualified trust established by and for the benefit of the Participant, and
(C) distributed to the Participant.

Such a mistaken rollover contribution shall be deemed never to have been a part of the Plan and shall not adversely affect the tax qualification of the Plan under the Code.

Article 17

TOP-HEAVY PROVISIONS

17.1 Top-Heavy Plan Defined

This Article shall apply if the Plan is a "Top-Heavy Plan" as hereinafter provided. The Plan shall be a Top-Heavy Plan in a Plan Year if, as of the Determination Date, the present value of the cumulative accrued benefits (as calculated below) of all Key Employees exceeds sixty percent (60%) of the present value of the accumulative accrued benefits under the Plan of all Employees and Key Employees, but excluding the value of the accrued benefits of former Key Employees.

All plans that are part of the Required Aggregation Group shall be treated as a single plan. Solely for the purpose of determining if the Plan, or any other plan included in a Required Aggregation Group of which this Plan is a part, is Top-Heavy, the accrued benefit of a Non-Key Employee shall be determined under (A) the method, if any, that uniformly applies for accrual purposes under all plans maintained by the affiliated employers, or (B) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional accrual rate of Section 411(b)(1)(C) of the Code.

For this purpose, the present value of an Employee's accrued benefit is equal to the sum of (A) and (B) below:

(A) The sum of (i) the present value of an Employee's accrued retirement income in each defined benefit plan which is included in the Required Aggregation Group determined as of the most recent valuation date within the twelve (12) month period ending on the Determination Date and as if the Employee had terminated service as of such valuation date and (ii) the aggregate distribution made with respect to such Employee during the five-year period ending on the Determination Date from all defined benefit plans included in the Required Aggregation Group and not reflected in the value of his accrued retirement income as of the most recent valuation date. In determining present value for all plans in the Required

Aggregation Group, the actuarial assumptions set forth for this purpose in the Employer's defined benefit plan shall be utilized and the commencement date shall be determined taking any nonproportional subsidy into account; and

(B) The sum of (i) the aggregate balance of his accounts in all defined contribution plans which are part of the Required Aggregation Group as of the most recent valuation date within the twelve (12) month period ending on the Determination Date, (ii) any contributions allocated to such an account after the valuation date and on or before the Determination Date and (iii) the aggregate distributions made with respect to such Employee during the five-year period ending on the Determination Date from all defined contribution plans which are part of the Required Aggregation Group and not reflected in the value of his account(s) as of the most recent valuation date.

Provided, however, the following special rules shall apply unless allowed to “sunset.”

(i) The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the Plan and any plan aggregated with the Plan under section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting “5-year period” for “1-year period.”

(ii) The accounts of any individual who has not performed services for the Employer during the 1-year period ending on the determination date shall not be taken into account.

17.2 Other Definitions

For the purposes of this Article, the following terms shall have the following meanings:

(A) "Determination Date" means the last day of the preceding Plan Year except that in the case of the first Plan Year, the term "Determination Date" shall mean the last day of the Plan Year.

(B) "Employee" means (i) a current employee or (ii) a former employee who performed services for the Employer during the Plan Year containing the Determination Date or any of the four (4) preceding Plan Years.

(C) "Key Employee" means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the Employer having annual compensation greater than $165,000 (as adjusted under section 416(i)(1) of the Code for Plan Years beginning after December 31, 2002), a 5-percent owner of the Employer, or a 1- percent owner of the Employer having annual compensation of more than $150,000. For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code. The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.

(D) "Non-Key Employee" means an Employee who is not a Key Employee.

(E) "Required Aggregation Group" means

(1) Each qualified plan of the Employer in which a Key Employee participates or participated (regardless of whether the Plan has terminated); and

(2) Each other such qualified plan of an Employer which enables any plan in which a Key Employee participates to meet the requirements of Section 401(a)(4) or Section 410 of the Code.

17.3 Top-Heavy Contributions

Solely in the event that a Non-Key Employee is not covered by a defined benefit plan of the Employer which provides the minimum benefit required by Section 416(c)(1) of the Code during a Plan Year in which this Plan is a Top-Heavy Plan, the Employer contributions and forfeitures allocated to each such Non-Key Employee who has not separated from service by the end of the Plan Year shall be equal to not less than the lesser of:

(A) Three percent (3%) of such Participant's Compensation in the Plan Year, or

(B) The percentage of such Participant's Compensation in the Plan Year which is equal to the percentage at which contributions and forfeitures are made to the Key Employee for whom such percentage is the highest for the year.

The percentage referred to in Paragraph (B) above shall be determined by dividing the contributions and forfeitures allocated to the Key Employee by such Employee's Compensation. For purposes of this Section, Tax Deferred Deposits shall be disregarded in determining the amount of Employer Contributions allocated to Non-Key Employees. The Employer shall make such additional contribution to the Plan as shall be necessary to make the allocation described above. The provisions of this section apply without regard to contributions or benefits under Social Security or any other Federal or State law. An adjustment

may be made to this Section, as permitted under Treasury Regulations, in the event an Employee is also entitled to an increased benefit in any other Top Heavy plan while it is in the Aggregation Group with this Plan. Employer Matching Contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of Section 416(c)(2) of the Code and the Plan. Employer Matching Contributions that are used to satisfy the minimum contribution requirements may nevertheless be treated as Employer Matching Contributions for purposes of the Actual Contribution Percentage test and other requirements of Section 401(m) of the Code.
A Non-Key Employee who is otherwise entitled to a minimum contribution under this Section shall not fail to receive the required minimum contribution because the Employee is excluded from participation because the Employee failed to make elective Tax Deferred Deposits under the Plan or because the Employee failed to accrue 1,000 Hours of Service during the Plan Year.

Article 18

QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs)

18.1 Terms of a QDRO

Notwithstanding the provisions of Section 15.8, if the Benefits Administration Committee determines an order to be a "Qualified Domestic Relations Order," within the meaning of Code Section 414(p), payment of benefits shall be made in accordance with the terms of such order, except that, if the value of the benefits to be paid to the Alternate Payee does not exceed $1,000, then such benefits shall be paid in a lump sum as soon as administratively practicable following the date that the order is deemed to be qualified.

18.2 Notification of Receipt of Order

The Benefits Administration Committee shall promptly notify a Participant and any other Alternate Payee of the receipt of a Qualified Domestic Relations Order and of the Plan's procedure for determining whether the order meets the requirements of a Qualified Domestic Relations Order. Within a reasonable period of time after the receipt of such order, the Benefits Administration Committee, in accordance with such procedures as it shall from time to time establish, shall determine whether such order meets the requirements of a Qualified Domestic Relations Order, and shall notify the Participant and each Alternate Payee of such determination.

Article 19

DIRECT ROLLOVER PROVISIONS

19.1 Application of Article

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Article, a Distributee may elect, at the time and in the manner prescribed by the Benefits Administration Committee, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

19.2 Definitions

(A) **Eligible Rollover Distribution**

An Eligible Rollover Distribution is any distribution of all or any portion of any benefit due to the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of other Distributee or other joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); any hardship distribution described in Section 401(k)(2)(B)(i)(IV) of the Code (or any distribution made upon hardship); and any other distribution(s) that is reasonably expected to total less than $200 during a Plan Year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(B) **Eligible Retirement Plan**

An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a Roth IRA, within the meaning of Code Section 408A, an annuity plan described in Code Section 403(a), a qualified trust described in Code Section 401(a), an annuity contract described in Code Section 403(b), or an eligible plan under Code Section 457(b) (maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state), where the plan sponsor agrees to accept the distributee's eligible rollover distribution and, in the case of a 457(b) plan or 403(b) annuity contract, also agrees to separately account for such transferred amounts; the definition of an eligible retirement plan shall also apply in the case of a eligible rollover distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee, as defined in Code Section 414(p).

(C) **Distributee**

A Distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse or Beneficiary and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order are Distributees with regard to the interest of the spouse, former spouse, or Beneficiary.

(D) **Direct Rollover**

A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

This amendment and restatement of the Plan is executed this 25th day of February, 2013, to be effective as previously stated in the Preamble.

ADS ALLIANCE DATA SYSTEMS, INC.

By: /s/ Calvin Hilton
Title: Vice President, Human Resources

APPENDIX A

SPECIAL SERVICE CREDITING PROVISIONS

The following shall establish to what extent, if any, service with a prior employer shall be credited for purposes of determining Years of Eligibility Service and Years of Vesting Service, for Employees who were employed by the following companies immediately prior to being employed by the Company. Any such credit shall be based entirely on records provided to the Company by the prior employer.

Employing Company	Years of Eligibility	Years of Vesting
Abacus and Data Management Divisions of DoubleClick Inc. ("Abacus")	All service recognized for this purpose under the 401(k) plan previously sponsored by Abacus, but only if employed by the Company as of February 1, 2007.	All service recognized for this purpose under the 401(k) plan previously sponsored by Abacus, but only if employed by the Company as of February 1, 2007.
Advecor, Inc. ("Advecor")	All service recognized for this purpose under Advecor's 401(k) Plan, but only if employed by Advecor as of 12/31/2012	All service recognized for this purpose under Advecor's 401(k) Plan, but only if employed by Advecor as of 12/31/2012
AEP, Inc. ("AEP")*	Date of hire by AEP, but only if employed by the Company as of 03/01/2003	Date of hire by AEP, but only if employed by the Company as of 03/01/2003
Aspen Marketing Holdings, Inc ("Aspen")	All service recognized for this purpose under Aspen's 401(k) Plan, but only if hired by the Company as of June 1, 2011	All service recognized for this purpose under Aspen's 401(k) Plan, but only if hired by the Company as of June 1, 2011
Atrana Solutions, Inc. ("Atrana")	Date of hire by Atrana, but only if employed by the Company as of May 14, 2005.	Date of hire by Atrana, but only if employed by the Company as of May 14, 2005.
Big Designs, Inc. ("Big")	Date of hire by Big, but only if employed by the Company as of August 15, 2006.	Date of hire by Big, but only if employed by the Company as of August 15, 2006.

Employing Company	Years of Eligibility	Years of Vesting
Bigfoot Interactive, Inc. (“Bigfoot”)	Date of hire by Bigfoot, but only if employed by the Company as of September 24, 2005.	Date of hire by Bigfoot, but only if employed by the Company as of September 24, 2005.
Capstone Consulting Partners, Inc. (“Capstone”)*	Date of hire by Capstone if employed by Capstone on 11/1/2004 and hired by the Company on or before 11/2/2004.	Date of hire by Capstone if employed by Capstone on 11/1/2004 and hired by the Company on or before 11/2/2004.
ConneXt	Date of hire with ConneXt if employed by ConneXt on 08/23/2001	Date of hire with ConneXt if employed by ConneXt on 08/23/2001
CPC Associates, Inc. (“CPC”)	Date of hire by CPC, but only if employed by the Company as of October 1, 2006.	Date of hire by CPC, but only if employed by the Company as of October 1, 2006.
Conservation Billing Services, Inc. (“CBSI”)*	Date of hire by CBSI, but only if employed by the Company as of 09/16/2003	Date of hire by CBSI, but only if employed by the Company as of 09/16/2003
Dresser Industries (“Dresser”)	Date of hire with Dresser if employed by Dresser on 07/15/1997	Date of hire with Dresser if employed by Dresser on 07/15/1997
DoubleClick, Inc. (“DoubleClick”)	Date of hire by DoubleClick, but only if employed by the Company as of April 3, 2006.	Date of hire by DoubleClick, but only if employed by the Company as of April 3, 2006.
Epsilon Marketing Services, Inc. (“Epsilon”)*	Date of hire by Epsilon if employed by Epsilon on 10/31/2004 and hired by the Company on 11/1/2004 or if employed by Epsilon’s affiliate on 12/31/2004 and hired by the Company on or before 1/1/2005, but no less than one Year of Eligibility Service.	Date of hire by Epsilon if employed by Epsilon on 10/31/2004 and hired by the Company on 11/1/2004 or if employed by Epsilon’s affiliate on 12/31/2004 and hired by the Company on or before 1/1/2005.

Employing Company	Years of Eligibility	Years of Vesting
Acquired Subsidiaries of Equifax, Inc. (“Equifax”)	All service recognized for this purpose under the 401(k) plan previously sponsored by Equifax, but only if hired by the Company as of July 1, 2010, or such later date provided in the Purchase Agreement	All service recognized for this purpose under the 401(k) plan previously sponsored by Equifax, but only if hired by the Company as of July 1, 2010, or such later date provided in the Purchase Agreement
ExoLink, Inc. (“ExoLink”)	Date of hire with ExoLink, but only if employed by the Company as of 01/01/2003	Date of hire with ExoLink, but only if employed by the Company as of 01/01/2003
Frequency Marketing, Inc. (“FMI”)	Date of hire with FMI if employed with FMI on 12/31/2001	Date of hire with FMI if employed with FMI on 12/31/2001
Harmonic Systems	Date of hire with Harmonic Systems if employed by Harmonic Systems on 08/11/1998	Date of hire with Harmonic Systems if employed by Harmonic Systems on 08/11/1998
HMI Holdings, LLP (“HMI”)	All service recognized for this purpose under the HMI 401(k) Plan in which the employee participated, but only if employed by HMI as of 12/01/2012	All service recognized for this purpose under the HMI 401(k) Plan in which the employee participated, but only if employed by HMI as of 12/01/2012
Huntington National Bank (“HNB”)	Date of hire with HNB if employed by HNB on 07/19/1998	Date of hire with HNB if employed by HNB on 07/19/1998
iCom Information & Communications L.P. (“iCom”)	Date of hire by iCom, but only if employed by the Company as of February 6, 2006.	Date of hire by iCom, but only if employed by the Company as of February 6, 2006.

Employing Company	Years of Eligibility	Years of Vesting
Limited Brands, Inc.	All service recognized for this purpose under the 401(k) plan sponsored by Limited Brands, but only if hired by the Company (1) in connection with an asset purchase and (2) either on September 15, 2012, or within 90 days afterwards	All service recognized for this purpose under the 401(k) plan sponsored by Limited Brands, but only if hired by the Company (1) in connection with an asset purchase and (2) either on September 15, 2012, or within 90 days afterwards
Loyalty RealTime, Inc. (formerly d/b/a Loyalty RealTime, LLC (“LRI”)	Date of hire with LRI if employed with LRI on 12/31/2001	Date of hire with LRI if employed with LRI on 12/31/2001
Mail Box Capital Corporation (“Mail Box”)	Date of hire with Mail Box if employed by Mail Box on 09/24/2001	Date of hire with Mail Box if employed by Mail Box on 09/24/2001
National City Card Services Division of National City Bank Columbus (“NBCC”)	Date of hire with NBCC if employed with NBCC on 11/22/1996	Date of hire with NBCC if employed with NBCC on 11/22/1996
Orcom Solutions, Inc. (“Orcom”)*	Date of hire by Orcom, but only if employed by the Company as of 12/02/2003, or within 30 days thereafter	Date of hire by Orcom, but only if employed by the Company as of 12/02/2003, or within 30 days thereafter
Specialty Retailers (TX), LP (“Specialty”) *	Date of hire by Specialty, but only if employed by the Company as of 09/12/2003	Date of hire by Specialty, but only if employed by the Company as of 09/12/2003
SPS (The Associates) (“SPS”)	Date of hire with SPS if employed with SPS on 07/14/1999	Date of hire with SPS if employed with SPS on 07/14/1999
SPS Fleetshare (The Associates) (“SPS”)	Date of hire with SPS if employed by SPS on 07/14/1999 and on 06/30/2000	Date of hire with SPS if employed by SPS on 07/14/1999 and on 06/30/1999

Employing Company	Years of Eligibility	Years of Vesting
Utilipro	Date of hire with Utilipro if employed by Utilipro on 02/28/2001	Date of hire with Utilipro if employed by Utilipro on 02/28/2001
Milford and Bensalem Divisions of Charming Shoppes Receivables Corporation (“Charming”)	All service recognized for this purpose under the 401(k) plan previously sponsored by Charming, but only if hired by the Company as of October 30, 2009, or such later date provided in the Purchase Agreement.	All service recognized for this purpose under the 401(k) plan previously sponsored by Charming, but only if hired by the Company as of October 30, 2009, or such later date provided in the Purchase Agreement.

* Affected Employees never become eligible to receive a Retirement Contribution.

Exhibit 10.105

FOURTH AMENDED AND RESTATED SERVICE AGREEMENT

THIS FOURTH AMENDED AND RESTATED SERVICE AGREEMENT (the "Agreement") is effective as of the 1st day of March, 2011, and is entered into by and between ADS Alliance Data Systems, Inc. ("Alliance Data"), a Delaware corporation with its principal place of business at 7500 Dallas Parkway, Suite 700, Plano, TX 75024, and World Financial Network National Bank ("Bank"), a national banking association, with its principal place of business at One Righter Parkway, Suite 100, Wilmington, DE 19803. Alliance Data and Bank may be referred to herein individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, Bank and Alliance Data entered into that certain Third Amended and Restated Service Agreement dated as of May 15, 2008 (as subsequently amended, the "2008 Service Agreement") so that Bank could outsource certain card processing activities, database services and other administrative functions; and

WHEREAS, Bank and Alliance Data wish to amend and restate the 2008 Service Agreement in its entirety.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Alliance Data and Bank agree as follows:

ARTICLE 1
SERVICING AND COMPENSATION

Section 1.1 Services and Standards. Subject to the terms of this Agreement, Alliance Data, as an independent contractor, shall provide to Bank the services as more fully described in Appendix A (collectively, the "Services"). Alliance Data agrees to perform the Services in accordance with the service standards set forth in Appendix B, or any other service standards as specifically directed by Bank and agreed to by Alliance Data for individual client(s). To the extent that any level of service required by Bank is not enumerated in Appendix B, Alliance Data agrees to provide at least the same level of service to Bank that Alliance Data provides to other clients. In addition, Alliance Data shall continue to provide the number, types and content of reports regarding servicing that it currently provides Bank under the 2008 Service Agreement.

Section 1.2 Compensation. Bank shall pay Alliance Data for Services performed in accordance with the pricing schedule set forth in Appendix C. Alliance Data reserves the right to pass through any and all out-of-pocket third party expenses to Bank, without markup, including without limitation, those described in Appendix D. Bank shall be responsible for all sales, use or excise taxes levied on accounts payable by Bank to Alliance Data under this Agreement, excluding taxes based upon Alliance Data's income, employment of personnel or taxes from which Bank is exempt (provided Bank provides Alliance Data written evidence of such exemption). Undisputed payments shall be made by Bank to Alliance Data within thirty (30) calendar days after Bank's receipt of Alliance Data's invoice.

Section 1.3 Bank Duties. Insofar as the performance of Services under this Agreement requires data, documents, information or materials required to be furnished by Bank, Bank agrees to furnish the data, documents, information or materials reasonably necessary and within such time as may reasonably be necessary in order for Alliance Data to perform the Services in a

prompt and workmanlike manner and within the service standards set forth herein.

ARTICLE 2
TERM AND TERMINATION

Section 2.1 Term. This Agreement shall become effective as of the date first written above and shall continue in full force and effect for a period of three (3) years from such date ("Initial Term"), unless terminated in accordance with the terms of this Agreement. This Agreement shall automatically renew for consecutive one (1) year terms (each, a "Renewal Term"), unless terminated by either Party as specified below.

Section 2.2 Termination. This Agreement will terminate (i) if either Party gives written notice of termination not less than one hundred eighty (180) days prior to the expiration of the Initial or any Renewal Term; (ii) if either Party fails to perform any of its material obligations or duties under this Agreement or commits a material breach of its representations and warranties and such failure to perform or breach is not cured within thirty (30) days after written notice is provided to the defaulting Party; or (iii) if either Party becomes insolvent or generally unable to pay its debts as they become due or shall become the subject of a bankruptcy, conservatorship, receivership or similar proceeding, or shall make a general assignment for the benefit of its creditors, the other Party may terminate this Agreement, subject to applicable creditor rights laws. Notwithstanding the above, the Parties agree to cooperate for a period of up to one hundred eighty (180) days following the termination of this Agreement to ensure orderly transition by Alliance Data of its duties hereunder to either Bank or Bank's designated substitute provider of Services.

Section 2.3 Other Provisions. Article1, Article 4, Article 5 and their related obligations, including, as applicable, Bank's obligation to pay Alliance Data for Services performed and/or reimburse Alliance Data for expenses incurred on behalf of Bank, shall survive the termination of this Agreement.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

Section 3.1 Performance. Alliance Data represents and warrants that it has all of the necessary facilities and qualified personnel to provide the Services in accordance with the terms of this Agreement; that it shall perform its obligations hereunder at all times and in all respects in accordance with applicable federal, state, and local laws and regulations; and that it will perform its obligations hereunder in a timely manner and with due care.

Section 3.2 Organizational Existence. Each Party to this Agreement represents and warrants to the other Party that it: (i) is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires such qualifications; (iii) has the requisite corporate power and authority and the legal right to own, pledge, mortgage, and operate its properties, to lease the properties it operates under lease, and to conduct its business as now conducted and hereafter contemplated to be conducted; (iv) has all necessary licenses, permits, consents, or approvals from or by, and has made all necessary notices to, all authorities having jurisdiction, to the extent required for such current ownership and operation or as proposed to be conducted; and (v) is in compliance with its certificate of incorporation and by-laws.

Section 3.3 Corporate Power. Each Party to this Agreement represents and warrants to the other Party that the execution, delivery, and performance of this Agreement and all

instruments and documents to be delivered hereunder: (i) are within the Party's corporate power; (ii) have been duly authorized by all necessary or proper corporate action; (iii) do not and will not contravene any provisions of the Party's certificate of incorporation, or by-laws; (iv) will not violate any law or regulation or any order or decree of any court or governmental instrumentality; (v) will not conflict with or result in the breach of, or constitute a default under any indenture, mortgage, deed of trust, lease, agreement, or other instrument to which it is a party or by which any of its property is bound; and (vi) do not require any filing or registration with or the consent or approval of any governmental body, agency, authority, or any other person which has not been made or obtained previously. This Agreement has been duly executed and delivered, and constitutes a legal, valid, and binding obligation, enforceable in accordance with its terms, subject to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors' rights generally from time to time in effect and to the availability of equitable remedies.

Section 3.4 Solvency. Each Party to this Agreement represents and warrants to the other Party that it is Solvent. "Solvent," as to an entity for purposes of this Agreement, means (i) such entity is presently able generally to pay its debts as they become due and (ii) such entity does not have unreasonably small capital to carry on such entity's business as theretofore operated and all business in which such entity is about to or intends to engage.

Section 3.5 No Default. Each Party to this Agreement represents and warrants to the other Party that it is not in default with respect to any material contract, agreement, lease, or other instrument to which it is a party, nor has it received any notice of default under any such material contract, agreement, lease or other instrument which as a consequence of any such default, would materially and adversely affect the performance of its obligations under this Agreement.

Section 3.6 No Burdensome Restrictions. Each Party to this Agreement represents and warrants to the other Party that no contract, lease agreement, or other instrument to which it is a party or by which it is bound, and no provision of applicable law or governmental regulation, materially and adversely affects the business, operation, prospects, property, or financial condition of the Party such as to impair its ability to meet its obligations under this Agreement.

Section 3.7 Information Correct. Each Party to this Agreement represents and warrants to the other Party that all information furnished for purposes of or in connection with this Agreement is, to the best of such Parties' knowledge, true and correct in all material respects and no such information omits to state a material fact necessary to make the information so furnished not misleading. There is no fact known which has not been disclosed and which materially and adversely affects the financial condition, business, property, or prospects of the Party.

Section 3.8 No Termination Event. Each Party to this Agreement represents and warrants to the other Party that no event which, with notice or the passage of time or both, would permit termination of this Agreement has occurred and is continuing or, to the best knowledge of the Party, is threatened to occur.

ARTICLE 4
CONFIDENTIALITY

Section 4.1 Duty of Confidentiality. In connection with the performance of this Agreement, each Party may receive information which the other Party (the "Furnishing Party") has identified to the Party receiving such information (the "Receiving Party") as being confidential or proprietary to the Furnishing Party, or otherwise not generally available to the public (collectively, the "Confidential Information"). Confidential Information, includes, but is not limited to, the confidential and proprietary information of either Party or its affiliates, subsidiaries, or parent

companies disclosed by either Party to the other Party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, without limitation, documents, prototypes, samples, plant and equipment). Confidential Information includes, by way of example, but without limitation, the Business Information, Technical Information, and Personal Information described below.

(a) Examples of ”Business Information” are: business models, know-how, designs, reports, data, research, financial information, pricing information, corporate client information, market definitions and information, and business inventions and ideas.

(b) Examples of “Technical Information” are: software, algorithms, developments, inventions, processes, ideas, designs, drawings, engineering, hardware configuration, and technical specifications, including, but not limited to, computer terminal specifications, the source code developed from such specifications, all derivative and reverse-engineered works of the specifications, and the documentation and software related to the source code, the specifications and the derivative works.

(c) Examples of “Personal Information” are: all non-public personal information of or related to individual customers or consumers of either Party, including but not limited to names, addresses, telephone numbers, account numbers, customer lists, and account, financial or transaction information.

Each Party agrees (i) to keep the Confidential Information confidential and (ii) not to use or disclose the Confidential Information for any purpose, other than the purpose for which it was disclosed, without the prior written consent of the Furnishing Party.

Section 4.2 Information which is not Confidential Information. For purposes of this Agreement, “Confidential Information,” with the exclusion of Personal Information, shall not include: (i) information in the public domain at the time that it was provided by the Furnishing Party or subsequently came in to the public domain other than as a result of breach of the confidentiality provisions contained herein; (ii) information obtained from a third party (provided such party was not bound by confidentiality agreements with the Furnishing Party); (iii) information is released by the Furnishing Party to anyone without restriction; (iv) information that was known to the Receiving Party prior to its disclosure without any obligation to keep it confidential as evidenced by tangible records kept by the Receiving Party in the ordinary course of business; or (v) information independently developed by the Receiving Party.

Section 4.3 Preservation of Confidential Information. Procedures to Protect. Security Controls. The Receiving Party shall disclose Confidential Information only to those of its employees who have a need to know in order to accomplish the purposes of this Agreement. Each Party shall use its best efforts to ensure that its employees take such action as shall be necessary or advisable to preserve and protect the confidentiality of Confidential Information. In addition, the Receiving Party shall establish commercially reasonable controls to ensure the confidentiality of Confidential Information and to ensure that Confidential Information is not disclosed contrary to the provisions of this Agreement, GLBA, or any other applicable laws. Without limiting the foregoing, each Party shall implement such physical and other security measures as are necessary to (i) ensure the security and confidentiality of Confidential Information, (ii) protect against threats or hazards to the security and integrity of Confidential Information, and (iii) protect against unauthorized access to or use of Confidential Information. The Receiving Party shall disclose Confidential Information only to those of its officers, directors, employees or agents who have a need to know in order to accomplish the purposes of this Agreement. Each Party shall use its commercially reasonable efforts to ensure that its employees take such action as shall be necessary or advisable to preserve and protect the confidentiality of Confidential Information. The Parties shall, at a minimum, establish and maintain such data

security program as is necessary to meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding customer Information, as set forth in the Code of Federal Regulations at 12 C.F.R. Parts 30, 208, 211, 225, 263, 308, 364, 568, and 570. Alliance Data shall immediately notify Bank in the event it believes, or has reason to believe, that a security breach or any other unauthorized intrusion has occurred. Alliance Data shall estimate the intrusion's impact on the Bank and shall specify any corrective action taken by Alliance Data.

Section 4.4 Return of Confidential Information. The Receiving Party shall, at the Furnishing Party's option, either destroy or return the Confidential Information to the Furnishing Party as soon as possible after completion of the Services or other circumstances for which such Confidential Information was disclosed. Upon written request or upon termination of this Agreement, the Receiving Party shall, at its option, either destroy or return to the Furnishing Party such Confidential Information in its possession or control. Further, upon the request of the Furnishing Party, the Receiving Party shall promptly certify in writing to the destruction of such Confidential Information.

Section 4.5 Compelled Disclosure. If the Receiving Party is legally compelled (including, without limitation, by law, rule, regulation, stock exchange or governmental regulating or administrative or similar agency, as part of a judicial or administrative proceeding or otherwise, by deposition, interrogatory, request for information or documents, subpoena, civil or criminal investigative demand or otherwise) to disclose any Confidential Information, the Receiving Party shall promptly notify, where allowed by law to do so, the Furnishing Party to permit the Furnishing Party to seek a protective order or take other appropriate action. The Receiving Party shall also cooperate in the Furnishing Party's efforts to obtain a protective order or other reasonable assurance that the Confidential Information shall be treated confidentially. If, in the absence of a protective order, the Receiving Party or its representatives are, in the opinion of counsel, compelled as a matter of law to disclose the Confidential Information, the Receiving Party may disclose to the party compelling disclosure only the part of the Confidential Information as is required by law to be disclosed (in which case, prior to disclosure, the Receiving Party shall advise and consult with the Furnishing Party and its counsel as to such disclosure and the nature and wording of such disclosure) and shall use its reasonable best efforts to obtain confidential treatment therefore, at the expense of the Furnishing Party.

Section 4.6 Continuing Duty. Each Party's obligations to confidentiality and non-disclosure shall survive the termination of this Agreement.

ARTICLE 5
INDEMNIFICATION

Section 5.1 Alliance Data shall indemnify and hold Bank, its officers, directors, employees and agents harmless from and against any "Losses," defined in Section 5.5 below, arising out of or in connection with:

(a) The intentional or negligent act or omission of Alliance Data or of its officers, directors, employees, or agents (including Subcontractors, as defined in Section 7.1) in the performance of the duties and obligations of Alliance Data under this Agreement;

(b) The failure by Alliance Data, after notice of breach and opportunity to cure in accordance with 2.2 above, to comply with the terms of this Agreement; or

(c) The failure by Alliance Data to comply with its obligations under any and all laws, rules or regulations applicable to Alliance Data; provided, however, that no indemnification shall be

available under this clause (c) as to any matter for which Bank is required to indemnify Alliance Data under Section 5.3 (d); or

(d) Any act or omission to act taken or not taken, as the case may be, by Bank, its officers, directors, employees or agents, at the request of, and in accordance with such instructions or procedures as may be required by Alliance Data if such act or omission constitutes a failure to comply with any law, rule or regulation applicable to Alliance Data;

provided, however, that except as specifically provided in clause (d) above, Alliance Data shall not be required to indemnify or hold Bank, its officers, directors, employees or agents harmless from and against any losses arising from any act or omission of Bank, its officers, directors, employees or agents.

Section 5.2 Except as hereinafter set forth, the liability of Alliance Data to Bank shall be limited in the aggregate to two times the amount payable by Bank to Alliance Data under the terms of this Agreement. The foregoing limitation on liability shall not apply to any intentional tort or any negligent or intentional breach of this Agreement by Alliance Data, its employees, officers, directors or subcontractors.

Section 5.3 Bank shall indemnify and hold Alliance Data, its officers, directors, employees and agents harmless from and against any "Losses," as defined in Section 5.5 below, arising out of or in connection with:

(a) The intentional or negligent act or omission of Bank or of its officers, directors, employees, or agents in the performance of the duties and obligations of Bank under this Agreement;

(b) The failure by Bank, after notice of breach and opportunity to cure in accordance with Section 2.2 above, to comply with the terms of this Agreement; or

(c) The failure by Bank to comply with its obligations under any and all laws, rules or regulations applicable to Bank; provided, however, that no indemnification shall be available under this clause (c) as to matters for which Alliance Data is required to indemnify Bank under Section 5.1(d);

(d) Any act or omission to act by taken or not taken, as the case may be, by Alliance Data, its officers, directors, employees or agents, at the request of, and in accordance with such instructions or procedures as may be required by Bank, if such act or omission constitutes a failure to comply with any law, rule or regulation applicable to Bank;

provided, however, that except as specifically provided in clause (d) above, Bank shall not be required to indemnify or hold Alliance Data, its officers, directors, employees or agents harmless from and against any losses arising from any act or omission of Alliance Data, its officers, directors, employees or agents.

Section 5.4 Notice of Claims. Each Party shall promptly notify the other Party of any claim, demand, suit, or threat of suit of which that Party becomes aware (except with respect to a threat of suit either Party might institute against the other) which may give rise to a right of indemnification pursuant to this Agreement. The indemnifying Party will be entitled to participate in the settlement or defense thereof and, if the indemnifying Party elects, to take over and control the settlement or defense thereof with counsel satisfactory to the indemnified Party. In any case,

the indemnifying Party and the indemnified Party shall cooperate (at no cost to the indemnified Party) in the settlement or defense of any such claim, demand, suit, or proceeding.

Section 5.5. Losses. For purposes of this Article 5, the term "Losses" shall mean any losses, damages, costs, and expenses, liabilities, settlements, or similar items including, without limitation, reasonable attorneys' fees, investigation costs and court costs reasonably incurred by Alliance Data or Bank, as the case may be.

ARTICLE 6
NOTICES

Section 6.1 Notices. All notices required under this Agreement shall be in writing and be deemed to have been properly given when delivered in person or sent by certified or registered USPS mail, return receipt requested, postage prepaid, addressed:

If to Alliance Data:

ADS Alliance Data Systems, Inc.
7500 Dallas Parkway, Suite 700
Plano, TX 75024
Attn: General Counsel

If to Bank:

World Financial Network National Bank
One Righter Parkway, Suite 100
Wilmington, DE 19803
Attn: President

With a copy to:

World Financial Network National Bank
One Righter Parkway, Suite 100
Wilmington, DE 19803
Attn: General Counsel

Each notice sent pursuant to the terms hereof shall also be sent by facsimile transmission to the persons, and at the numbers, set forth herein (as the same may be changed from time to time). Either Party may change its address, telephone or facsimile number for notices by notice in the manner set forth above.

ARTICLE 7
SUBCONTRACTING

Section 7.1 Subcontractors. In performing its obligations under this Agreement, Alliance Data may engage subcontractors and other third parties (collectively, "Subcontractors"), provided Alliance Data has done so in compliance with Bank's vendor due diligence policy. All Subcontractors shall, as a condition to their engagement, agree to be bound by provisions substantially similar to those included in this Agreement, specifically those relating to Confidential Information and Bank's and regulators' right to audit. Alliance Data shall not, without first obtaining Bank's written permission, outsource any services involving the release of Personal Information outside of the United States.

ARTICLE 8
INSURANCE

Section 8.1. Insurance. Alliance Data shall, during the Initial Term and any Renewal Terms, maintain in force the following insurance coverages. Alliance Data shall cause its insurers to issue certificates of insurance evidencing that the coverage required under this Agreement is maintained in force, and that Bank is a designated additional insured. Alliance Data shall provide or have its insurer provide to Bank not less than thirty (30) days written notice of any modification in insurance coverage that reduces coverage to amounts below the limits set forth below or any cancellation or non-renewal of the policies.

8.1.1 Worker's Compensation Insurance, including occupational illness or disease coverage, or other similar social insurance in accordance with the laws of the nation, province, state, or territory exercising jurisdiction over Alliance Data employees; and Employer's Liability Insurance, with minimum limits of $1,000,000 bodily injury per occurrence, $1,000,000 bodily injury by disease for each employee, and $1,000,000 bodily injury by disease in the aggregate. The policy shall be endorsed to include "all states" coverage and a waiver of subrogation in favor of Bank, where allowed by law;

8.1.2 General Liability Insurance, written on an "occurrence" basis with a combined single limit of at least $1,000,000 per occurrence, and $2,000,000 aggregate for bodily injury and property damage in a form providing coverage not less than a standard commercial general liability policy including hazards of operation coverage, products/completed operations coverage, contractual coverage, and an umbrella liability policy with limits of at least $15,000,000. Each policy shall name Bank as an additional insured and shall include a waiver of subrogation in favor of Bank.

8.1.3 Employee Dishonesty and Computer Fraud coverage for loss arising out of or in connection with any fraudulent or dishonest acts committed by the employees of Alliance Data, acting alone or in collusion with others, in a minimum amount of $5,000,000.

8.1.4 Alliance Data shall ensure that its Subcontractors, if any, maintain adequate insurance coverage as appropriate for the services rendered by such Subcontractors.

ARTICLE 9
LIMITATION OF LIABILITY

Section 9.1 Exclusion of Consequential and Other Damages; Limitation. EXCEPT AS SET FORTH IN SECTION 9.4, AND AS OTHERWISE MAY BE SPECIFICALLY SET FORTH IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER ANY THEORY OF LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, SUFFERED BY THE OTHER PARTY, ANY END USER, CUSTOMER, RESELLER OR ANY DISTRIBUTOR, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTIONS, OR OTHER ECONOMIC LOSS ARISING OUT OF THE PERFORMANCE OR NON-PERFORMANCE HEREUNDER OR ANY SERVICES PROVIDED HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

Section 9.2 TO THE EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS SET FORTH IN SECTION 9.4, NOTWITHSTANDING THE FORM (E.G., CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTORY LIABILITY OR OTHERWISE) IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT AGAINST ALLIANCE DATA HEREUNDER, ALLIANCE DATA SHALL NOT BE LIABLE HEREUNDER FOR DAMAGES

WHICH EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO TWO TIMES THE FEES PAID BY BANK TO ALLIANCE DATA UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEEDING THE DATE OF OCCURENCE OF THE CAUSE OF ACTION WHICH GAVE RISE TO THE LIABILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS SET FORTH IN SECTION 9.4, NOTWITHSTANDING THE FORM (E.G., CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTORY LIABILITY OR OTHERWISE) IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT AGAINST BANK HEREUNDER, BANK SHALL NOT BE LIABLE HEREUNDER FOR DAMAGES WHICH EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO THE FEES PAID BY BANK TO ALLIANCE DATA UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEEDING THE DATE OF OCCURENCE OF THE CAUSE OF ACTION WHICH GAVE RISE TO THE LIABILITY.

Section 9.3 In the event that a Party believes that it has a claim against the other Party for losses sustained as a result of such other Party's actions or inactions under the Agreement, the Party having such claim shall promptly notify the other Party of such claim. NO ACTION MAY BE BROUGHT RELATING TO THIS AGREEMENT AT ANY TIME MORE THAN TWENTY FOUR (24) MONTHS AFTER SUCH PARTY CLAIMING SUCH LOSS HAS BECOME AWARE OF OR SHOULD REASONABLY HAVE BECOME AWARE OF THE MATERIAL FACTS GIVING RISE TO THE CAUSE OF ACTION OCCURRED.

Section 9.4 Exceptions. Notwithstanding the foregoing limitations on liability, the limitations set forth in Section 9.1 and 9.2 shall not apply (i) with respect to damages proximately caused by the gross negligence and/or intentional tortuous conduct of either Party, (ii) to limit either Party's express obligations under this Agreement to defend or indemnify the other under this Agreement for damages caused by either Party's infringement (or misappropriation) of the then presently issued patents of, or the copyrights or trade secrets of, the other Party, or (iii) to a Party's material breach of Sections 3 and/or 4 of this Agreement.

Nothing in this Section 9 shall abridge the right of either Party to terminate this Agreement as may be expressly allowed in this Agreement, nor be construed to limit in any manner either Party's right to seek injunctive relief. Each Party shall have a duty to mitigate damages for which the other Party is responsible under this Agreement.

Section 9.5 Acknowledgments. EACH OF THE PARTIES UNDERSTANDS THE LEGAL AND ECONOMIC RAMIFICATIONS OF THIS SECTION, AND ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION WERE NEGOTIATED BETWEEN PARTIES AND THAT SUCH PROVISIONS WERE CONSIDERED BY EACH PARTY IN DETERMINING THE SPECIFIC RISKS THAT IT ASSUMED IN AGREEING TO ITS OBLIGATIONS SET FORTH IN THIS AGREEMENT, AND THE AMOUNTS OF THE PAYMENTS TO BE MADE UNDER THIS AGREEMENT.

ARTICLE 10
GENERAL PROVISIONS

Section 10.1 Force Majeure. Any Party to this Agreement shall be released from liability hereunder for failure to perform any of its obligations herein (other than the obligation of Bank to pay for Services and/or reimburse Alliance Data for expenses incurred on behalf of Bank) where such failure to perform occurs by reason of any act of God, fire, flood, storm, earthquake, tidal wave, sabotage, war, military operation, terrorist acts, national emergency, civil commotion, strike, order of any government agency or other cause beyond either Party's reasonable control.

Section 10.2 Status of Parties to Agreement. Nothing in this Agreement shall be construed as making either Party a joint venturer, partner, representative, employee, or agent of the other. Neither Alliance Data nor Bank shall hold itself out as such. Alliance Data is and shall be considered an independent contractor.

Section 10.3 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, without reference to its conflicts of laws provisions.

Section 10.4 No Waiver. No delay on the part of Alliance Data or Bank in exercising any power or right hereunder shall operate as a waiver of any such power or right. No waiver shall be valid unless in writing signed by the waiving Party and then only to the extent set forth therein.

Section 10.5 Assignment and Modification. This Agreement shall not be assigned or amended except by a written instrument signed by both Alliance Data and Bank. Notwithstanding the prior sentence, either Party may assign this Agreement to an affiliate, subsidiary or the purchaser of all or substantially all of its assets.

Section 10.6 Titles. The titles and headings indicated herein are inserted for convenience only and shall not be considered a part of this Agreement or in any way limit the construction or interpretation of this Agreement.

Section 10.7 Entire Agreement. This Agreement constitutes the entire Agreement and supersedes all prior agreements and understandings, whether oral or written, among the Parties hereto with respect to the subject matter hereof. Any prior agreements, representations, statements, negotiations, or undertakings dealing with the subject matter of this Agreement are superseded, including, but not limited to the 2008 Service Agreement (including any survival clauses contained therein). As a point of clarification, no liabilities arising under the 2008 Service Agreement, or liabilities arising from events that occurred during the term of the 2008 Service Agreement, are waived by the execution of this Agreement and such liabilities are still governed by and subject to the terms of the 2008 Service Agreement.

Section 10.8 Severability. If any provision of this Agreement is held to be invalid, void or unenforceable, all other provisions shall remain valid and be enforced and construed as if such invalid provision were never a part of this Agreement.

Section 10.9 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns.

Section 10.10 Announcements. The Parties agree that neither Party shall make any publicity release, advertisement or public announcement concerning this Agreement or the Services provided in connection with this Agreement without the prior approval of the other Party, except as required by law.

Section 10.11 Audit. Alliance Data (and its Subcontractors) shall make available its records, policies, procedures, facilities and premises that directly relate to the Services to Bank and Bank's appropriate regulatory and/or supervisory agencies for examination and to the internal and third party auditors of Bank during normal business hours in a manner that will not disrupt its day-to-day business operations. All persons conducting such examinations shall abide by Alliance Data's reasonable security procedures and shall conduct such examinations at their own or Bank's own expense. In addition, Alliance Data shall provide to Bank on an annual basis copies of Alliance Data's (or its parent company's) financial reports and such other internal and/or external audit reports or reviews to assist Bank in reviewing the performance of the Services, such as reviews of internal controls, security programs and business continuity programs.

Section 10.12 Business Continuity/Disaster Recovery. Alliance Data represents and warrants that it currently has in place a business continuity and a disaster recovery plan, and, upon Bank's request, will provide Bank an executive summary of the business continuity and disaster recovery plan, which will highlight the parameters of such plan.

Section 10.13 Taxes. The Parties' respective responsibilities for taxes arising under or in connection with this Agreement shall be as follows:

(a) Alliance Data shall be responsible for, and shall pay, all sales, use, excise, value-added taxes, or taxes of a similar nature (excluding taxes based upon the Bank's income or employment of personnel, which shall be borne by the Bank), imposed by the United States, any state, provincial or local government, or other taxing authority, on all goods and services provided under this Agreement. The Parties agree to cooperate with each other to minimize any applicable sales, use or similar tax and, in connection therewith, the Parties shall provide each other with any relevant tax information as reasonably requested, including, without limitation, resale or exemption certificates, multi-state exemption certificates, information concerning the use of assets, materials, notice of assessments and withholding documentation. Alliance Data shall calculate and include the appropriate amount of taxes on each monthly invoice to Bank.

(b) Notwithstanding the foregoing, each Party is permitted to disclose the tax treatment and tax structure of any transaction that may occur at any time on or after the earliest to occur of the date of public announcement of discussions relating to the transaction, the date of public announcement of the transaction, and the date of execution of an agreement (with or without conditions) to enter into the transaction. This Agreement shall not be construed to limit in any way the Parties' ability to consult any tax advisor regarding the tax treatment or tax structure of a transaction. These provisions are meant to be interpreted so as to prevent any transaction from being treated as offered under "conditions of confidentiality" within the meaning of the Internal Revenue Code and the Treasury Regulations thereunder.

Section 10.14 Receivership. Alliance Data agrees that if Bank is placed into receivership with the Federal Deposit Insurance Corporation (FDIC), Alliance Data shall continue to comply with the terms of this Agreement, continue to provide the Services in accordance with this Agreement and, upon the request of the FDIC, provide a reasonable time for transition to a successor servicer.

ARTICLE 11
BANK DATA AND INTELLECTUAL PROPERTY

Section 11.1 Data and Intellectual Property Ownership. The Parties acknowledge and agree that any and all data or information provided to Alliance Data in order for Alliance Data to provide the Services under the terms of this Agreement is owned by Bank ("Bank Data"). Alliance Data represents, warrants and agrees that, unless otherwise agreed upon in writing, Alliance Data shall use Bank Data solely for the purposes of fulfilling its obligations under the terms of this Agreement and no other purpose. Furthermore, in the event Bank provides any software, hardware or processes to Alliance Data, such software, hardware or processes will remain the exclusive property of Bank. Nothing in this Agreement shall be deemed to convey a proprietary interest to Alliance Data or any third party in any of the software, hardware, processes, technology, or any of the derivative works thereof , or trade name or trade mark rights which are owned or licensed by Bank or any of its non-Alliance Data affiliates.

Section 11.2 Representation and Warranty by Alliance Data Regarding Intellectual Property. Alliance Data represents, to the best of Alliance Data's knowledge, that the provision of the Services does not violate the intellectual property rights of any third party.

Section 11.3 Intellectual Property Indemnity. Notwithstanding the provisions of Article 9 of this Agreement, Alliance Data agrees to indemnify, defend, protect, save and hold harmless Bank, Bank's subsidiaries and affiliates, and their directors, officers, employees and agents, against any and all losses, liabilities, judgments, awards and costs (including legal fees, investigative costs and out-of-pocket expenses reasonably incurred by Bank) arising out of or related to any claim in whole or in part that Bank's use of the Services or other goods and services provided to Bank pursuant to this Agreement infringes, induces the infringement, or violates any third parties' intellectual property rights. Alliance Data shall defend and settle at its sole expense all suits or proceedings arising in whole or in part out of the foregoing, provided that Bank gives Alliance Data reasonably prompt notice of any such claim of which it learns. This obligation of indemnification shall survive even if Bank does not provide Alliance Data with reasonably prompt notice of any such claim of which Bank learns so long as such failure does not materially prejudice Alliance Data. If, as a result of any such claim, Bank is enjoined from use of the Services, or if Alliance Data believes that Bank is likely to become the subject of a claim, Alliance Data, at its option and expense shall (i) procure the right for Bank to continue to use the Services; (ii) modify the Services so that they are not infringing, while remaining functionally equivalent to the current Services; or (iii) terminate this Agreement.

(Signature block on next page.)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized officers effective as of the day and year first above written.

ADS Alliance Data Systems, Inc.

By: /s/ Hugh M. Hayden
Name: Hugh M. Hayden
Title: SVP

World Financial Network National Bank

By: /s/ John J. Coane
Name: John J. Coane
Title: VP and CFO

APPENDIX A

SERVICES

Alliance Data will provide the following services in support of Bank's programs, subject to Bank's policies and procedures:

Product Services

New Account Processing

- Receipt and processing of applications received via mail/fax/electronic.
- Credit scoring and adjudication in accordance with Bank credit criteria.
- Application exceptions will be referred to appropriate Bank representative.
- Approved accounts will be established on account processing platform.
- Declined accounts will be sent adverse action letters.

Customer Service

- Processing of all customer inquires (received via telephone/mail/fax/electronic).
- Includes toll free customer inquiry number.
- Responds to billing inquiries, account disputes and adjustments, billing error resolution, provision of duplicate copies of billing documentation (as requested).
- Serves as a liaison between customers and clients for communication of product/service disputes.

Collections and Recoveries

- Manages collection of overdue accounts from initial delinquency through charge-off.
- Manages special account processing including bankruptcy, deceased & fraud.
- Collection exceptions, including but not limited to settlement offers will be referred to appropriate Bank representative for approval.

Data Processing

- Management of all aspects of processing platform(s), including day to day operation, backups and maintenance, and disaster recovery.
- Includes provision of a 24 X 7 control center/help desk facility to monitor and manage data processing operations on behalf of Bank.
- Includes availability of the Enterprise Data Warehouse ("EDW"). The EDW is used by Alliance Data to compile and store all retail transaction and cardholder account data.

Applications Development

- Includes management and maintenance of processing applications, including new feature development, product enhancements and problem resolution.
- Includes provision of development staff with specialized knowledge of Bank processing applications.

Enhancement Services

- Manages the marketing of services to bank customers through periodic communications mediums such as billing statements & telephone communications.
- Co-develop with third party vendors targeted marketing campaigns that provide offers of complimentary products to Bank's customers.

Direct Marketing

- Partners with Bank and clients to develop and execute marketing programs to acquire new customers, increase sales from existing customers, or activate customers who have become inactive.

Sales Support

- Provision of all Sales development and support on behalf of Bank.
- A National Sales team will be deployed to market new client relationships on behalf of Bank, working in close partnership with Bank executive management.
- Includes development of advertising materials and marketing collateral materials.

Client Relationship Management

- Provides relationship management staff to support day to day management of Bank's client relationships.

Credit Operations Support

- Provides strategic credit operations support for all call center operations and includes interfaces with third party partners including credit reporting agencies and collection agencies.

Card Embossing and Issuance

- Includes plastics and end-to-end processing of card embossing requests, either from initial account set-up or for replacement cards.

Payment Remittance Processing

- Provides secure processing of customer remittances at Alliance Data's national remittance center facility.
- Includes exception item processing and deposit of funds into Bank-specified account(s).

Statement Issuance

- Includes production and mailing of all customer communications from Bank; including not only periodic statements but also dunning letters, customer service correspondence, adverse action letters and change of terms notices.

ADMINISTRATIVE

Critical:

Local Area Network, PC Support and Telecommunications Support

- Provision of network and telecommunications access to the Alliance Data systems.
- Provision of PC hardware, software and support to ensure continuous functioning.

Information Security Support

- Provision of technologies to protect client/customer data from illegal acquisition. Specifically, this shall include but not be limited to becoming, within the Initial Term of this Agreement, what is commonly referred to as PCI Compliant with regard to the transmission, receipt, storage and use of non-public personal information.

Contingency Planning

- Assist management in planning for a shut down or disruption in business, as requested by Bank.

Accounting Services

- All services and support deemed reasonable as compared to similar financial services provided by an internal accounting department, including but not limited to daily posting of transactions, daily general ledger production, timely account reconciliation within an acceptable materiality factor as determined by Bank and timely preparation of monthly financial and quarterly regulatory reports.

Tax Services

- Providing all services deemed reasonable as compared to similar tax related services provided by an internal tax department, including but not limited to computing, paying, and recording all tax obligations of Bank, making appropriate filings in the appropriate taxing jurisdictions, and advising Bank on how to lawfully reduce its tax obligations.

Accounts Payable

- Provision of services related to timely payment of invoices.

Legal and Compliance

- Provision of services related to the interpretation and application of federal, state and local rules, laws and regulations to activities conducted by Bank and proactive monitoring of proposed rules, laws and regulations, and on-going implementation.

Audit Services

- Provision of audit services in accordance with Bank’s policies.

Security

- Provision of physical security for the buildings owned or occupied by Bank.

Treasury Services

- Provision of certificate of deposit administration, cash management, funds transfer, and related investment activities and advice as requested by Bank. ADS shall retain reputable broker-dealers, and Bank shall have the right to replace any broker-dealer whose performance does not meet Bank’s satisfaction.

Non-critical:

Human Resources
- Assistance in the recruiting, management of staff and management of benefits available to Bank associates.

Strategic Planning Support
- Support in setting the direction of the Bank, as requested.

Business Planning Support
- Support in setting the business to be offered by the Bank, as requested.

Facilities Management
- Assist with management of the premises and its contents.

Mail Services
- Access to inter-company mail with all other Alliance Data facilities.

Safety Services
- Access to the Alliance Data policies and procedures regarding safety.

Purchasing
- Assistance in the purchase of miscellaneous office supplies and materials reasonably necessary to conduct Bank's business.

Travel Services
- assistance in and provide discounts on airfare, cars and lodging related to business travel.

Project Management
- General services as requested by Bank.

Public and Media Relations
- Assistance in managing media contacts and disclosures to the public.

APPENDIX B

PERFORMANCE STANDARDS

For all Services, Alliance Data shall meet either: (i) the following service standards; or (ii) or any other service standards as specifically directed by Bank and agreed to by Alliance Data for individual client(s).

1. Alliance Data will process mailed-in applications five days per week. Alliance Data will process one hundred percent (100%) of such applications within six (6) business days of receipt.

2. Alliance Data will process "instant" and "quick" applications from 9:00 am to 12:30 (Eastern Time) Monday through Saturday and from 10:00 am to 9:30 pm (Eastern Time) Sunday ("Normal Store Hours"). Alliance Data will process at least ninety percent (90%) of such applications within five (5) minutes of receipt. Alliance Data will establish "downtime" procedures for application processing.

3. Alliance Data will issue new and replacement credit cards within four (4) business days of embossing tape output; provided that schedules for issuance of additional cards pursuant to reactivation programs will be established on a program-by-program basis.

4. Alliance Data will answer at least eighty percent (80%) of incoming calls within twenty-five (25) seconds and not permit the abandoned call rate to exceed five percent (5%) measured on a monthly basis. Alliance Data will provide authorization service during Normal Store Hours and customer service from 9:00 am to 9:00 pm (Eastern Time) Monday through Saturday.

5. Alliance Data will provide electronic authorization services to be available at least ninety-nine and one-half percent (99.5%) of Normal Store Hours. Alliance Data will provide batch authorization means for catalogue sales. Alliance Data will establish "downtime" procedures for authorization.

6. Alliance Data will post valid transactions to the customer's account within twenty-four (24) to thirty-six (36) hours of receipt of a transaction file received on a business day.

7. Alliance Data will bill and mail account statements within four (4) business days of the scheduled billing date.

8. Alliance Data will process at least ninety-six percent (96%) of payments (based on monthly average) made in accordance with the instructions of Bank and at locations or addresses specified by Bank within twenty-four (24) hours of receipt. In the event any payment is not processed within twenty-four (24) hours of receipt, such payment shall be backdated to the date of receipt.

9. Alliance Data will respond to at least ninety percent (90%) of mailed-in customer inquiries within eight (8) business days and one hundred percent (100%) within thirty-one (31) days of receipt.

10. Within five (5) business days of receipt of any "NG" check notification, Alliance Data will debit the customer's account at face value plus any applicable NG check fee and, if payment was originally accepted by Bank and a corresponding payment made to Alliance Data, reimburse the Bank the face value of the check.

11. The EDW data will be delivered by Alliance Data on a daily basis and made available based on the EDW end of day marker within forty eight (48) hours. Sunday EDW data will be made available no later than the following Tuesday.

12. For Local Area Network, PC Support and Telecommunications Support, reports which track service requests will be provided by Alliance Data to ensure that these services are provided in accordance with agreed upon targets.

13. All Administrative Services, as defined above in Appendix A (with the exception of Local Area Network, PC Support and Telecommunications Support which are to be provided pursuant to Section 12 above), shall be provided by Alliance Data in accordance with best industry practices.

14. Alliance Data will track Alliance Data performance of these standards on a weekly basis, and will report results to Bank as agreed upon.

Assumptions:

- All standards are expressed as simple monthly averages for the Alliance Data service center and are measured on a monthly calendar basis based on Bank client.

- Telephone service factors are reported and tracked based on Alliance Data's department averages.

- Response time for credit application inquiries means those applicants which Bank has approved or declined. Applicants which Bank is reviewing under special circumstances, such as a suspected fraudulent application, shall not be included in the measurement of the standard.

APPENDIX C

PRICING SCHEDULE

Effective as of April 1, 2011

Bank shall pay to Alliance Data the Fee Per Statement listed below. For purposes of this Pricing Schedule, "Fee Per Statement" shall mean the all-inclusive pricing of the Services to be performed by Alliance Data on behalf of Bank as described in this Agreement and the Appendices.

The Parties will meet annually to review the actual costs associated with the Services described herein, compared with the budgeted costs used to determine the Fee Per Statement. Based on that review, and projections of future costs, the Parties will determine whether (and if so, how much) to adjust the then current Fee Per Statement. Such adjustments shall be documented in a writing executed by both Parties, which writing need not be in the form of a formal amendment to this Agreement.

Fee Per Statement:	$2.56

The Fee Per Statement shall include any reimbursement amounts Bank owes to Alliance Data for Alliance Data's services performed under the Common Paymaster Agreement entered into between the Parties effective April 1, 2006, as amended.

APPENDIX D

PASS THROUGH EXPENSES

1. Outside Legal and Auditor Fees
2. Regulatory Assessments
3. Postage Increases not already accounted for in the Fee Per Statement

Exhibit 12.1

RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our ratios of earnings to fixed charges for the periods indicated. Earnings consist of income from continuing operations before provisions for income taxes plus fixed charges. Fixed charges include interest expense, amortization of debt issuance costs and the portion of rental expense we believe is representative of the interest component of rent expense.

	Year Ended December 31,				
	2012	2011	2010	2009	2008
	(In thousands, except per share amounts)				
Income from continuing operations	$ 682,904	$ 514,095	$ 310,890	$ 262,946	$ 380,151
Plus					
Fixed charges	318,148	320,978	338,609	164,413	114,186
Total	$ 1,001,052	$ 835,073	$ 649,499	$ 427,359	$ 494,337
Earnings to fixed charges ratio	3.2	2.6	1.9	2.6	4.3
Fixed charges:					
Interest expense, including the amortization of debt issuance costs	$ 295,175	$ 300,816	$ 320,469	$ 146,589	$ 96,041
Estimate of interest component of rent expense[1]	22,973	20,162	18,140	17,824	18,145
Total fixed charges	$ 318,148	$ 320,978	$ 338,609	$ 164,413	$ 114,186

(1) Estimated at 1/3 of total rent expense

Exhibit 21

Subsidiaries of
Alliance Data Systems Corporation
A Delaware Corporation
(as of December 31, 2012)

Subsidiary	Jurisdiction of Organization	Other Business Names
Acorn Direct Marketing Limited	Ireland	None
ADI, LLC	Delaware	None
ADS Alliance Data Systems, Inc.	Delaware	None
ADS Foreign Holdings, Inc.	Delaware	None
ADS Reinsurance Ltd.	Bermuda	None
Abacus Direct Europe BV	Netherlands	None
Alliance Data FHC, Inc.	Delaware	Epsilon International
Alliance Data Foreign Holdings, Inc.	Delaware	None
Alliance Data Luxembourg S.àr.l.	Luxembourg	None
Alliance Data Pte. Ltd.	Singapore	None
AMGI Holdings, LLC	Delaware	None
Aspen ListCo Acquisitions LLC	Delaware	None
Aspen Marketing Holdings, LLC	Delaware	None
Aspen Marketing Services, LLC	Delaware	None
Catapult Integrated Services, LLC	Delaware	CatapultRPM Catapult Action Biased Marketing Catapult Marketing
ClickGreener Inc.	Ontario, Canada	None
Comenity LLC	Delaware	None
Comenity Bank	Delaware	None
Comenity Capital Bank	Utah	None
Comenity Servicing LLC	Texas	None
Coupons, LLC	Delaware	GetMembers Advecor
CPC Associates, LLC	Delaware	None
D. L. Ryan Companies, LLC	Delaware	Pinball
DNCE LLC	Delaware	None
Eindia, LLC	Delaware	None
Epsilon Data Management, LLC	Delaware	None
Epsilon Email Marketing India Private Limited	India	None
Epsilon FMI, Inc.	Ohio	None
Epsilon Interactive, LLC	Delaware	None
Epsilon Interactive CA Inc.	Ontario, Canada	Abacus Canada Enterprises Abacus Canada Aspen of West Chicago Marketing Services Aspen Marketing Services
Epsilon International, LLC	Delaware	None
Epsilon International Consulting Services Private Limited	India	None
Epsilon International UK Ltd.	England	None
Epsilon Marketing Services, LLC	Delaware	None
Epsilon Software Technology Consulting (Shanghai) Co., Ltd.	Shanghai, People’s Republic of China	None
Haggin Marketing, Inc.	California	None
HMI Holding Corp.	Delaware	None
Hyper Marketing Inc. International Holdings Limited	Ireland	None
I-Centrix Services, LLC	Delaware	None
ICOM Ltd.	Ontario, Canada	None
iCom Information & Communications, Inc.	Delaware	None

Subsidiary	Jurisdiction of Organization	Other Business Names
ICOM Information & Communications L.P.	Ontario, Canada	Shopper's Voice Smart Shopper Stop
Interact Connect LLC	Delaware	None
LMGC Holdings 1, ULC	Nova Scotia, Canada	None
LMGC Holdings 2, ULC	Nova Scotia, Canada	None
LMGC Luxembourg S.àr.l.	Luxembourg	None
LoyaltyOne, Inc.	Ontario, Canada	AIR MILES airmilesshops.ca AIR MILES Corporate Incentives AIR MILES For Business AIR MILES Incentives AIR MILES My Planet AIR MILES Reward Program Alliance Data Direct Antidote Loyalty & Marketing Services LoyaltyOne LoyaltyOne Canada My Planet
LoyaltyOne Participacoes Ltda	Brazil	None
LoyaltyOne Rewards Private Limited	India	None
LoyaltyOne SPB, Inc.	Ontario, Canada	None
LoyaltyOne US, Inc.	Delaware	Colloquy LoyaltyOne Consulting Precima
LoyaltyOne Travel Services Inc.	Ontario, Canada	AIR MILES Travel Services
Panavista, LLC	Delaware	None
RPM Connect, LLC	Delaware	None
Ryan Next, LLC	Delaware	None
Ryan Partnership, LLC	Delaware	Nsight Connect Etailing Solutions
SolutionSet Holding Corp.	Delaware	None
SolutionSet, Inc.	Delaware	None
SolutionSet., LLC	California	None
Spyglass Publishing Group, Inc.	California	None
S.R.I. Analytics, Inc.	Georgia	None
The Retail Zone, LLC	Delaware	None
WFC Card Services L.P.	Ontario, Canada	None
WFC Card Services Holdings Inc.	Ontario, Canada	None
WFN Credit Company, LLC	Delaware	None
WFN Operating Co., LLC	Delaware	None
World Financial Capital Credit Company, LLC	Delaware	None

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement Nos. 333-167525, 333-125770, 333-106246, 333-68134 and 333-65556 on Form S-8 of our reports dated February 28, 2013, relating to (1) the consolidated financial statements and financial statement schedule of Alliance Data Systems Corporation and subsidiaries and (2) the effectiveness of Alliance Data Systems Corporation and subsidiaries' internal control over financial reporting, appearing in this Annual Report on Form 10-K of Alliance Data Systems Corporation for the year ended December 31, 2012.

/s/ Deloitte & Touche LLP

Dallas, Texas
February 28, 2013

Exhibit 31.1

CERTIFICATION OF THE
CHIEF EXECUTIVE OFFICER
OF
ALLIANCE DATA SYSTEMS CORPORATION

I, Edward J. Heffernan, certify that:

1. I have reviewed this annual report on Form 10-K of Alliance Data Systems Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/S/ EDWARD J. HEFFERNAN
Edward J. Heffernan
Chief Executive Officer

Date: February 28, 2013

Exhibit 31.2

CERTIFICATION OF THE
CHIEF FINANCIAL OFFICER
OF
ALLIANCE DATA SYSTEMS CORPORATION

I, Charles L. Horn, certify that:

1. I have reviewed this annual report on Form 10-K of Alliance Data Systems Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/S/ CHARLES L. HORN
Charles L. Horn
Chief Financial Officer

Date: February 28, 2013

Exhibit 32.1

CERTIFICATION OF
CHIEF EXECUTIVE OFFICER
OF
ALLIANCE DATA SYSTEMS CORPORATION

This certification is provided pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and accompanies the annual report on Form 10-K for the year ended December 31, 2012 (the "Form 10-K") of Alliance Data Systems Corporation (the "Registrant").

I, Edward J. Heffernan, certify that to the best of my knowledge:

(i) the Form 10-K fully complies with the requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and

(ii) the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

/S/ EDWARD J. HEFFERNAN
Edward J. Heffernan
Chief Executive Officer

Date: February 28, 2013

Subscribed and sworn to before me
this 28th day of February, 2013.

/S/ JANE BAEDKE
Name: Jane Baedke
Title: Notary Public

My commission expires:
October 23, 2016

A signed original of this written statement required by Section 906 has been provided to the Registrant and will be retained by the Registrant and furnished to the Securities and Exchange Commission or its staff upon request.

Exhibit 32.2

CERTIFICATION OF
CHIEF FINANCIAL OFFICER
OF
ALLIANCE DATA SYSTEMS CORPORATION

This certification is provided pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and accompanies the annual report on Form 10-K for the year ended December 31, 2012 (the "Form 10-K") of Alliance Data Systems Corporation (the "Registrant").

I, Charles L. Horn, certify that to the best of my knowledge:

(i) the Form 10-K fully complies with the requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and

(ii) the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

/S/ CHARLES L. HORN
Charles L. Horn
Chief Financial Officer

Date: February 28, 2013

Subscribed and sworn to before me
this 28th day of February, 2013.

/S/ JANE BAEDKE
Name: Jane Baedke
Title: Notary Public

My commission expires:
October 23, 2016

A signed original of this written statement required by Section 906 has been provided to the Registrant and will be retained by the Registrant and furnished to the Securities and Exchange Commission or its staff upon request.