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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2001

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.)
17655 Waterview Parkway	**75252**
Dallas, Texas	(Zip Code)
(Address of Registrant's Principal Executive Offices)	

(972) 348-5100
(Registrant's telephone number, including area code)

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

Title of Each Class	Name of Each on 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 whether the registrant: (1) has filed all reports required by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No 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 amendments to this Form 10-K. ☒

As of March 1, 2002, 74,322,969 shares of common stock were outstanding and the aggregate market value of the common stock held by non-affiliates of the registrant on that date was approximately $327,997,252. Aggregate market value is estimated solely for the purposes of this report. This shall not be construed as an admission for the purposes of determining affiliate status.

Documents Incorporated By Reference

Certain information called for by Part III is incorporated by reference to the Proxy Statement for the 2002 Annual Meeting of our stockholders which will be filed with the Securities and Exchange Commission not later than 120 days after December 31, 2001.

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," "estimate," "expect," "intend," "predict," "project" 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 1 of 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 annual report 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.

PART I

Item 1. Business

General

We are a leading provider of transaction services, credit services and marketing services in North America. We focus on facilitating and managing electronic transactions between our clients and their customers through multiple distribution channels including in-store, catalog and the Internet. Our credit and marketing services assist our clients in identifying and acquiring new customers, as well as helping to increase the loyalty and profitability of their existing customers.

We have a client base in excess of 300 companies, consisting mostly of specialty retailers, petroleum retailers, supermarkets and financial services companies. We generally have long-term relationships with our clients, with contracts typically ranging from three to five years in duration. The Limited, one of our largest stockholders, together with its retail affiliates, including Victoria's Secret Stores, Victoria's Secret Catalogue, Express, Bath & Body Works, Lerner New York, Henri Bendel and Structure, is our largest client, representing approximately 17.2% of our 2001 consolidated revenue.

Our History

We are the result of the 1996 merger of two entities acquired by Welsh, Carson, Anderson & Stowe: J.C. Penney's transaction services business, BSI Business Services, Inc., and The Limited's credit card bank operation, World Financial Network National Bank.

Since our formation in 1996, we have expanded our range of services and capabilities through a combination of internal efforts and acquisitions. In July 1998, we acquired The Loyalty Management Group Canada Inc., which developed and operates the AIR MILES® Reward Program in Canada. The acquisition expanded our Marketing Services capabilities to include loyalty marketing. In September 1998, we acquired Harmonic Systems Incorporated, which provides network services, on-line loyalty and stored value products to specialty retailers. This acquisition enabled us to expand our transaction services to include specialty retailers. In July 1999, we acquired the network services business of SPS Payment Systems, Inc., a wholly owned subsidiary of Associates First Capital Corporation. This acquisition increased our processing scale and added an additional 180 clients, many in market sectors with an increasing acceptance of electronic payments, such as mass transit, tollway and parking.

In February 2001, we acquired substantially all of the operating assets of Utilipro, Inc., a subsidiary of AGL Resources, Inc. Utilipro is an account processing and servicing provider to the de-regulated utility sector. Utilipro provides these services to three clients serving approximately 500,000 utility customers. In August 2001, we entered into a strategic relationship under which we provide data processing and billing services for Puget Sound Energy, Inc., a regulated utility. As part of the strategic relationship, we acquired the assets of ConneXt, Inc., including use of the ConsumerLinX® software. In September 2001, we acquired the assets of Mailbox Capital Corporation, which provides print and mail services. In January 2002, we acquired Frequency Marketing, Inc., a small marketing services firm.

In June 2001, we concluded our initial public offering of our common stock now listed on the New York Stock Exchange.

Our Products and Services

Our products and services are centered around three core capabilities—Transaction Services, Credit Services and Marketing Services. We have traditionally marketed and sold our products and services on a stand-alone basis, but increasingly are marketing and selling them on a bundled and integrated basis. Our products and services and target markets are listed below:

Segment	Products and Services	Target Markets
Transaction Services	• Issuer Services - Card Processing - Billing and Payment Processing - Customer Care • Merchant Services - Network Services - Merchant Bankcard Services • Utility Services - Customer Information System Hosting - Customer Care - Billing and Payment Processing	• Specialty Retail • Petroleum Retail • Regulated and De-regulated Utility
Credit Services	• Private Label Receivables Financing - Underwriting and Risk Management - Merchant Processing - Receivables Funding	• Specialty Retail • Petroleum Retail
Marketing Services	• Loyalty Programs - AIR MILES Reward Program - One-to-One Loyalty • Database Marketing Services	• Specialty Retail • Petroleum Retail • Supermarkets • Financial Services • Regulated and De-regulated Utility

Our Market Opportunity and Growth Strategy

Our services are applicable to the full spectrum of commerce opportunities involving companies that sell products and services to individual consumers. Companies increasingly seek services that compile and analyze customer purchasing behavior, enabling them to more effectively communicate with their customers. The continuing shift to electronic payment systems generates valuable information on individual consumers and their purchasing preferences. Many retailers, however, lack the economies of scale and core competencies necessary to support their own transaction processing infrastructure or credit card or database operations. In addition, companies are increasingly outsourcing the development and management of their marketing programs, such as loyalty programs and database marketing services.

Our current strategy to capitalize on these opportunities includes:

- increasing the penetration of our products and services to existing clients;
- expanding our client base in our existing market sectors;
- continuing to expand our services and capabilities to help our clients succeed in multi-channel commerce; and
- considering focused, strategic acquisitions and alliances to enhance our core capabilities or increase our scale.

Programs and Products

Our program and product offerings are centered around three core operating segments—Transaction Services, Credit Services and Marketing Services.

Transaction Services

We facilitate and manage transactions between our clients and their customers through our scalable processing systems. Our largest clients within this segment include The Limited and its retail affiliates, representing approximately 19.9% of this segment's 2001 revenue.

Issuer Services. As reported in the Nilson Report, based on the number of accounts on file, we were the second largest outsourcer of retail private label card programs in the United States in 2000, with 56.2 million accounts on file. We assist clients in issuing private label credit cards branded with the retailer's name or logo that can be used by customers at the client's store locations. We also provide service and maintenance to our clients' private label card programs and assist our clients in acquiring, retaining and managing valuable repeat customers. Our Transaction Services segment performs issuer services for the Credit Services segment in connection with that segment's private label card programs. The inter-segment services accounted for 43.1% of Transaction Services revenue in 2001. Our commercial card processing and servicing capabilities are specifically designed to handle the unique requirements associated with providing a credit card program to businesses.

We have developed a proprietary private label credit card system designed specifically for retailers with the flexibility to make changes to accommodate our clients' specific needs. We have also built into the system marketing tools to assist our clients' in increasing sales. We utilize our Quick Credit and On-Line Pre-Screen products to originate new private label credit card accounts. We believe that these products provide an effective marketing advantage over competing services.

We use automated technology for bill preparation, printing and mailing. Commingling statements, presorting and bar coding allow us to take advantage of postal discounts. In addition, we also process customer payments using image processing technology to maximize efficiency. By doing so, we improve the funds availability for both our clients and for those private label receivables that we own or securitize.

Our customer care operations are influenced by our retail heritage. We focus our training programs in all areas on achieving the highest possible standards. We monitor our performance by conducting surveys with our clients and their customers. Our call centers are equipped to handle phone, mail, fax and Internet inquiries. We also provide collection activities on delinquent accounts to support our retail private label credit card programs.

Merchant Services. We are a leading provider of transaction processing, processing over 2.7 billion transactions in 2001 through over 130,000 of our point-of-sale terminals. According to the Faulkner and Gray Card Industry report, we were ranked fifth among third-party U.S. payment processors in sales transactions processed in 2000. We believe that we are the largest transaction processor to the U.S. retail petroleum industry, and we have a significant presence in the specialty retail and transportation industries.

We have built a network that enables us to process an array of electronic payment types including credit card, debit card, prepaid card, electronic benefits and fleet and check transactions. In addition to authorization and settlement of transactions, we also provide merchants with on-line, two-way mail messaging between our clients and their individual locations by broadcasting and receiving messages through their terminal devices. Our merchant bankcard services include financial settlement of MasterCard, Visa, Discover, American Express and other electronic card transactions, including credit, debit and stored value cards. Through our merchant bankcard services our clients can maintain their

current settlement provider or use us as a single processor to streamline their end-to-end transaction processing.

Utility Services. We believe that we are one of the largest independent service providers of customer information systems for regulated and de-regulated utilities in North America. We provide a comprehensive single source business solution for customer care and billing solutions. This solution provides not only hosting of the customer information system, but also customer care and statement generation, focusing on successful acquisition, value enhancement and retention of our clients' customers.

Currently, there are 17 states that have de-regulated electricity providers and 12 states that have de-regulated gas providers. In a de-regulated environment, gas and electric providers will need more sophisticated and complex billing and customer information systems to effectively compete in the marketplace. We believe that our ability to integrate transaction and marketing services effectively will provide a competitive advantage for us.

Our current service offering is based on hosting customer information systems that allow us to provide our core service offerings of call center operation, statement generation and payment processing. In addition, we offer customer acquisition and database marketing services.

Credit Services

Through our Credit Services segment we are able to finance and operate private label programs more effectively than a typical retailer can operate a stand-alone program, as we are able to fund receivables through our securitization program to achieve lower borrowing costs while having the infrastructure to support a variety of portfolio types and a large number of account holders. Through our subsidiary World Financial National Network Bank, we underwrite the accounts and fund purchases for 50 private label credit clients, representing over 63 million cardholders and over $2.4 billion of receivables as of December 31, 2001. The median FICO score of our active accounts is 657. Our clients are predominately specialty retailers, and the largest within this segment include The Limited and its retail affiliates, representing 46.1% of this segment's 2001 revenue, and Brylane, representing 20.4% of this segment's 2001 revenue.

We believe that an effective risk management process is important in both account underwriting and servicing. We use risk-based pricing in establishing pricing arrangements with our clients. We also use a risk analysis in establishing initial credit limits with cardholders. Because we process a large number of credit applications each year, we use automated proprietary scoring technology and verification procedures to process these applications. Our underwriting process involves the purchase of credit bureau information for each credit applicant. We continuously validate, monitor and maintain the scorecards, and we use the resulting data to ensure optimal risk performance. We receive a merchant fee for processing each sales transaction charged to a private label credit card program for which we provide receivables funding. Processing includes authorization and settlement of the funds to the retailer, net of our merchant discount fee.

We utilize a securitization program as our primary funding vehicle for private label credit card receivables. Securitizations involve the packaging and selling of both current and future receivable balances of credit card accounts to a master trust. Our Transaction Services segment retains rights to service the securitized accounts. Our securitizations are treated as sales for accounting purposes and, accordingly, the receivable is removed from the balance sheet. We retain an ownership interest in the receivables, which is commonly referred to as a seller's interest, and a residual interest in the trust, which is commonly referred to as an interest only strip. The interest only strip is based on assumptions regarding future prepayments and credit losses and is subject to volatility that could materially affect our operating results. Both the amount and timing of estimated cash flows are dependent on the performance of the underlying credit card receivables, and actual cash flows may vary significantly from

expectations. If prepayments from cardholders or defaults by cardholders exceed our estimates, we may be required to decrease the carrying value of the interest only strips through a charge against earnings. The Limited and its retail affiliates accounted for approximately 43.8% of the receivables in the trust portfolio as of December 31, 2001. In addition, approximately 15.6% of the receivables in the trust portfolio related to credit card programs for catalogue operations of Brylane.

Marketing Services

Our clients are focused on targeting, acquiring and retaining loyal and profitable customers. We create and manage marketing programs that result in securing more frequent and sustained customer purchasing. We utilize the information gathered through our loyalty programs to help our clients design and implement effective marketing programs. Our primary service for this segment is the AIR MILES Reward Program, representing 86.4% of this segment's 2001 revenue. Our clients within this segment are specialty retailers, petroleum retailers, supermarkets and financial services providers. Our largest clients are Bank of Montreal, representing approximately 31.4% of this segment's 2001 revenue, Canada Safeway, representing approximately 15.7% of this segment's 2001 revenue, and American Express, representing approximately 10.4% of this segment's 2001 revenue.

AIR MILES Reward Program. We operate what we believe to be the largest loyalty program in Canada. The AIR MILES Reward Program enables consumers to earn AIR MILES reward miles as they shop across a range of retailers and other sponsors participating in the AIR MILES Reward Program. The AIR MILES Reward Program has enabled sponsors to use this tool to increase revenues by bringing new customers to the sponsor, retaining existing customers and increasing the amount spent by customers.

We deal with three primary parties in connection with our AIR MILES Reward Program: Sponsors, Collectors and Suppliers.

Sponsors. A sponsor enters into an agreement with us to secure exclusive rights for its particular region and product or service category and to reward customers for changing their shopping behavior and increase sales from collectors. The program has over 130 brand names represented by sponsors, including Bank of Montreal, Canada Safeway, American Express, Shell Canada, A&P Canada, and Sobeys.

Collectors. Members of the AIR MILES Reward Program, known as collectors, accumulate AIR MILES reward miles based on their purchasing behavior at sponsor locations. The AIR MILES Reward Program offers a reward structure that provides a quick and easy way for collectors to earn a broad selection of travel, entertainment and other lifestyle rewards by shopping at participating sponsors. Based upon the most recent census data available, 1999, our active participants represented over 64% of all Canadian households. We have issued over ten billion AIR MILES reward miles since the program's inception in 1992.

Suppliers. We enter into supply agreements with suppliers of rewards to the program such as airlines, movie theaters and manufacturers of consumer electronics. We make these reward opportunities available through Air Canada and over 180 other reward suppliers. We make payments to suppliers based on a contractual supply arrangement when a collector redeems the AIR MILES reward miles.

Database Marketing Services. We built and manage a large database containing information on approximately 93.2 million U.S. consumers. Using this database, we developed a suite of data mining and profiling products that enable our clients to better understand their customers and optimize opportunities for developing customer relationships.

We develop and execute programs designed to acquire and retain customers.

Safeguards To Our Business Disaster And Contingency Planning

We have a number of safeguards to protect us from the risks we face as a business. Given the significant amount of data that we manage, much of which is real-time data to support our clients' commerce initiatives, we have established redundant facilities for our data centers. We operate two data processing centers. In the event of a disaster at either of our two data centers, we can restore that data center's systems at a third party provided disaster recovery center.

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 do not currently hold any patents. However, we have three patent applications pending. 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 do have applications pending in South American and European countries. Effective protection of intellectual property rights may be unavailable or limited in some countries. The laws of some countries do not protect our proprietary rights to the same extent as in the United States and Canada. We believe that our trademarks are important for our branding and corporate identification and marketing of our services in each segment.

Competition

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

Transaction Services. The payment processing industry is highly competitive, especially among the five largest payment processors in the United States, which processed approximately 23.0 billion transactions during 2000. We are a leading provider of transaction services, processing over 2.7 billion transactions in 2001 through over 130,000 of our point-of-sale terminals**.** Our top three competitors have built their businesses by focusing on merchant banking relationships, while our focus has been on industry segments characterized by companies with large customer bases, detail-rich data and high transaction volumes. Our focus on specific market sectors allows us to develop and deliver solutions targeted to the needs of these sectors. This focus is consistent with our marketing strategy for all products and services. Additionally, we believe we effectively distinguish ourselves from other payment processors by providing solutions that help our clients leverage investments they have made in their payment systems by using these systems for electronic marketing programs. Our biggest competition in the area of utility services is from companies developing in-house solutions and capabilities.

Credit Services. Our credit services business 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 been on targeting retailers that understand the competitive advantage of developing loyal customers. Typically these retailers have customers that make more frequent and smaller transactions. This results in the effective capture of detail-rich data within our database marketing services, allowing us to mine and analyze this data to develop successful customer relationship management strategies for our clients. As an issuer of private label credit cards, we

compete with other payment methods, primarily general-purpose credit cards like Visa, MasterCard and American Express, as well as cash, checks and debit cards.

Marketing Services. As a provider of marketing services, we generally compete with advertising and other promotional and loyalty programs, both traditional and online, 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. For each of our marketing services, we expect competition to intensify as more competitors enter our market. In addition, new 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 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 to consumers. Intensifying competition will make it more difficult for us to do this. For our database marketing services, our ability to continue to capture detailed transaction data on consumers is critical in providing effective customer relationship management strategies for our clients.

Regulation

Federal and state laws and regulations extensively regulate the operations of our credit services bank subsidiary, World Financial Network National Bank. Many of these laws and regulations are intended to maintain the safety and soundness of World Financial Bank, and they impose significant restraints on it to which other non-regulated companies are not subject. Because World Financial Bank is deemed a credit card bank within the meaning of the Bank Holding Company Act, we are not subject to regulations 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 in nature. Nevertheless, as a national bank, World Financial Bank is still subject to overlapping supervision by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

World Financial Bank must maintain minimum amounts of regulatory capital. If World Financial Bank does not meet these capital requirements, the regulators have broad discretion to institute a number of corrective actions that could have a direct material effect on our financial statements. Under capital adequacy guidelines and the regulating framework for prompt corrective action, World Financial Bank must meet specific guidelines that involve measures and ratios of its assets, liabilities, regulatory capital, interest rate exposure and certain off-balance sheet items under regulatory accounting standards, among other factors. Under the National Bank Act, if the capital stock of World Financial Bank is impaired by losses or otherwise, the OCC is authorized to require us as the sole shareholder of the bank to make up the deficiency. To the extent necessary, if a deficiency in capital still exists, the FDIC may be appointed as a receiver to wind up World Financial Bank's affairs.

Before World Financial Bank can pay dividends to us, it must obtain prior regulatory approval if all dividends declared in any calendar year would exceed (1) its net profits for that year plus (2) its retained net profits for the preceding two calendar years, less any required transfers to surplus. In addition, World Financial Bank may only pay dividends to the extent that retained net profits, including the portion transferred to surplus, exceed bad debts. Moreover, to pay any dividend, World Financial Bank must maintain adequate capital above regulatory guidelines. Further, if a regulatory authority believes that World Financial Bank is engaged or is about to engage in an unsafe or unsound practice, which, depending on its financial condition, could include the payment of dividends, the authority may require, after notice and hearing, that World Financial Bank cease and desist from the unsafe practice.

We are limited under Sections 23A and 23B of the Federal Reserve Act in the extent to which we can borrow or otherwise obtain credit from, or engage in other "covered transactions" with World Financial Bank, which may have the effect of limiting the extent to which World Financial Bank can finance or otherwise supply funds to us. "Covered transactions" include loans or extensions of credit, purchases of securities or assets, 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 World Financial Bank only on terms and under circumstances that are substantially the same, or at least as favorable to World Financial Bank, as those prevailing at the time for comparable transactions with nonaffiliated companies. Furthermore, with certain exceptions, each loan or extension of credit by World Financial 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. The Federal Reserve Board has proposed new regulations concerning covered transactions that attempt to clarify and expand the foregoing limitations. If they are adopted, we will be subject to additional restrictions on these kinds of transactions.

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, IRS rules, and other regulations. Due to the tragic events of September 11, 2001, 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. Although World Financial Bank may not be directly affected by these new laws and regulations because it is a credit card bank, we will continue to monitor these developments as part of our efforts to comply with applicable law.

We are also subject to numerous laws and regulations that are intended to protect consumers, including the Truth in Lending Act, Equal Credit Opportunity Act and Fair Credit Reporting Act. 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 new privacy regulations have been implemented in the United States and Canada in recent years. These new regulations place many new restrictions on our ability to collect and disseminate customer information. In the United States, a wide-ranging financial modernization law known as the Gramm-Leach-Bliley Act became law in November 1999, and additional privacy regulations under this act became effective in July 2001.

Under Gramm-Leach-Bliley, we must develop and implement a comprehensive written information security program that includes administrative, technical and physical safeguards relating to customer information. We must also develop initial and annual privacy notices for customers that describe in general terms our information sharing practices. If we intend to share nonpublic personal information about customers with 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 addition to the federal privacy laws with which we must comply, many states also have adopted statutes, regulations or other measures governing the collection and distribution of personal information about customers. In some cases these state measures are preempted by federal law, but if not, we make efforts to monitor and comply with individual state privacy laws in the conduct of our business.

Canada has likewise recently enacted new privacy legislation known as the Personal Information Protection and Electronic Documents Act. This act requires organizations to obtain consent to the collection, use or disclosure of personal information. The nature of the required consent will depend on the sensitivity of the personal information and will permit personal information to be used only for the purpose for which it was collected. The Province of Quebec has made similar privacy legislation applicable to the private sector in that province since 1994 and other provinces are considering further privacy legislation. We believe we have taken appropriate steps with our AIR MILES Reward Program to comply with the new law.

Employees

As of March 1, 2002, we had over 6,500 employees in the United States, Canada and New Zealand. We believe our relations with our employees are good. We have no collective bargaining agreements with our employees.

Risk Factors

Risks Related to General Business Operations

Ten clients were responsible for 57.2% of our consolidated revenue last year, 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 were responsible for approximately 57.2% of our consolidated revenue during the year ended December 31, 2001, with The Limited and its retail affiliates representing approximately 17.2% of our 2001 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 to either 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.

Transaction Services. Our 10 largest clients in this segment were responsible for approximately 60.9% of our Transaction Services revenue in 2001. The Limited and its retail affiliates was the largest Transaction Services client in 2001, representing approximately 19.9% of this segment's 2001 revenue, and Brylane, our second largest Transaction Services client, was responsible for approximately 8.8% of this segment's 2001 revenue. In August 2001, The Limited sold Lane Bryant to a third party and began to market goods at its Structure-branded stores under the Express name as Express for Men. Given the recent nature of these changes, we are unsure what their long term impact on our Transaction Services segment will be. Our contracts with The Limited and its retail affiliates and Brylane expire in 2006. Equiva Services, LLC was responsible for approximately 8.2% of this segment's 2001 revenue. We provide transaction processing services to Equiva which is the service provider to Shell-branded locations in the United States. Equiva is one of our 10 largest clients both in the Transaction Services segment and on a consolidated basis. Our contract with Equiva expires in December 2002 as a result of a contract extension entered into in August 2001. Upon expiration of this contract, we can give no assurance that we will successfully reach an agreement with Equiva on similar terms to those currently existing, or at all. If our negotiations with Equiva result in a decrease in pricing or the number and types of the transaction services we provide to Equiva, our revenue and profitability from Equiva would be further adversely affected.

Credit Services. Our two largest clients in this segment were responsible for approximately 66.5% of our Credit Services revenue in 2001. The Limited and its retail affiliates were responsible for approximately 46.1%, and Brylane was responsible for approximately 20.4% of our Credit Services revenue in 2001. Our contracts with these clients expire in 2006. We are unsure what the long term impact of the sale by The Limited of Lane Bryant and the rebranding of Structure as Express for Men will be on our Credit Services segment. The integration of Structure into Express could lead to the

closing of stores and the name change could adversely impact credit sales causing lower revenues for our Credit Services segment.

Marketing Services. Our 10 largest clients in this segment were responsible for approximately 82.5% of our Marketing Services revenue in 2001. Bank of Montreal, Canada Safeway, American Express and Shell Canada were the four largest Marketing Services clients in 2001. The Bank of Montreal represented approximately 31.4%, Canada Safeway represented approximately 15.7%, American Express represented approximately 10.4% and Shell Canada represented approximately 8.1%, respectively, of this segment's 2001 revenue. Our contracts with The Bank of Montreal and Canada Safeway expire in March 2003 and December 2002, respectively.

Our largest client, The Limited, is a significant stockholder, and as a result it has the ability to influence our corporate affairs in a manner that could be inconsistent with the best interests of our other stockholders.

Eight of our clients are retail affiliates of Limited Commerce Corp., our second largest stockholder and a wholly owned subsidiary of The Limited. The Limited, together with its retail affiliates, is our largest client. Limited Commerce Corp. beneficially owned approximately 19.7% of our common stock as of March 1, 2002, and, through a stockholders agreement, has the right to designate up to two members of our board of directors. As a significant stockholder with board representation, The Limited, unlike our other clients, is able to exercise significant influence over matters requiring stockholder approval, including the election of directors and the approval of significant corporate transactions. The interests of The Limited may not be aligned with the interests of our company or other stockholders. The Limited could use its influence as a major client and large stockholder to negotiate contracts with us that have terms that are more favorable to The Limited than could be obtained by unaffiliated retailers. In addition, The Limited could use its influence and could act to hinder our ability to enter into contracts with its competitors.

Competition in our industry 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. Many of our current competitors have longer operating histories, stronger brand names and greater financial, technical, marketing and other resources than we do. We cannot assure you that we will be able to compete successfully against our current and potential competitors nor can we be sure that we will be able to successfully market our services at our current levels of profitability.

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

Our growth and continued profitability rely on acceptance of the services that we offer. If demand for transaction, credit or marketing services decreases, the price of our common stock could fall and you could lose value in your investment. Loyalty and database marketing strategies are relatively new to retailers, and we cannot guarantee that merchants will continue to use these types of marketing strategies. 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. Any decrease in the demand for our services for the reasons discussed above or other reasons could have a material adverse effect on our growth and revenue.

We cannot assure you that we will effectively integrate acquisitions or realize their full benefits, and future acquisitions may result in dilutive equity issuances or increases in debt.

We expect to continue to seek selective acquisitions as an element of our growth strategy. If we are unable to successfully integrate completed or any future acquisition, we may incur substantial costs and delays or other operational, technical or financial problems, any of which could harm our business

and impact the trading price of our common stock. In addition, the failure to successfully integrate any future acquisition may divert management's attention from our core operations or could harm our ability to timely meet the needs of our customers. To finance future acquisitions, we may need to raise funds either by issuing equity securities or incurring debt. If we issue additional equity securities, such sales could reduce the current value of our stock by diluting the ownership interest of our stockholders.

We may face damages as a result of litigation in connection with a class action suit filed on behalf of a group of World Financial Bank cardholders.

A group of World Financial Bank cardholders filed a putative class action complaint in November 2000 against World Financial Bank in U.S. District Court for the Southern District of Florida, Miami Division, alleging that World Financial Bank's billing practices are false, misleading and deceptive, and therefore in breach of state and federal laws and cardholder contracts. The plaintiff group of cardholders has not specified the amount of damages that it is seeking. The amount of such damages, if any, would be determined at trial. Due to the uncertainty inherent in litigation, we cannot provide assurance that an ultimate result against World Financial Bank in this action would not have a material adverse effect on us.

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 from consumers.

An important feature of our marketing and credit services is our ability to develop and maintain individual consumer profiles. As part of our AIR MILES Reward Program, database marketing program and private label program, we maintain marketing databases containing information on consumers' account transactions. Although we have extensive security procedures, our databases may be subject to unauthorized access. If we experience a security breach, the integrity of our marketing databases could 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, database marketing or private label programs could decline if any well-publicized compromise of security occurred. Any public perception that we released consumer information without authorization could subject us to legal claims from consumers and adversely affect our client relationships.

Loss of data center capacity or interruption of telecommunication links could affect our ability to timely meet the needs of our clients and their customers.

Our ability to protect our data centers against damage from fire, power loss, telecommunications failure and other disasters is critical. In order to provide many of our services, we must be able to store, retrieve, process and manage large databases and periodically expand and upgrade our capabilities. Any damage to our data centers or any failure of our telecommunication links that interrupts our operations could adversely affect our ability to meet our clients' needs and their confidence in utilizing us for future services.

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

A significant portion of our Marketing Services revenue is derived from our Loyalty Group operations in Canada, which transacts business in Canadian dollars. Therefore, our reported results from quarter-to-quarter will be affected by changes in the exchange rate between the U.S. and Canadian dollars over the relevant periods.

Our hedging activity subjects us to off-balance sheet risks including interest rate risk and risks relating to the creditworthiness of the commercial banks with whom we contract in our hedging transactions.

The interest rate swap and treasury lock agreements we use to reduce our exposure to fluctuations in interest and foreign currency rates subject us to off-balance sheet risk. These off-balance sheet financial instruments involve elements of credit and interest rate risk in excess of the amount recognized on our balance sheet and changes in their fair value could affect earnings. Our policy is to minimize cash flow exposure to adverse changes in interest rates and foreign exchange rates. Our objective is to engage in risk management strategies that provide adequate downside protection. Our hedging policy subjects us to risks relating to the creditworthiness of the commercial banks with whom we contract in our hedging transactions. If one of these banks cannot honor its obligations, we may suffer a loss. While our hedging policy reduces our exposure to losses resulting from unfavorable changes in interest rates, it also reduces or eliminates our ability to profit from favorable changes in interest rates.

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 cannot assure you that we will 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 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.

Risks Particular to Transaction Services

If a cardholder has a dispute with a merchant or if a cardholder is a victim of a fraudulent transaction with a merchant, we may be liable for the amount of any charges related to such dispute or transaction in the event we are not reimbursed for such charges by the merchant.

In our merchant bankcard services business, when a billing dispute between a cardholder and a merchant is resolved in favor of the cardholder, or when a card issuer detects fraudulent transactions submitted by a merchant, we "charge back" to the merchant the amount we originally credited to the merchant. We then credit the amount of the transaction back to the cardholder's account. These billing disputes or chargebacks typically relate to, among others:

- the cardholder's nonreceipt of merchandise or services;
- unauthorized use of a credit card; or
- general disputes between a cardholder and a merchant as to the quality of the goods purchased or the services rendered by the merchant.

If we are unable to collect amounts charged back to a merchant's account, and if the merchant refuses or is unable to reimburse us for the chargeback, we incur a loss equal to the amount of the chargeback. We cannot assure you that we will not experience significant losses from chargebacks in the

future. Such significant losses could arise from merchant bankruptcies or other reasons that reduce the likelihood we will be reimbursed for chargebacks. Any significant chargeback losses in a period would have a material adverse effect on our profitability.

If we are required to pay state taxes on transaction processing, it could negatively impact our profitability.

Transaction processing companies may be subject to state taxation of certain portions of their fees charged to merchants for their services. If we are required to pay such taxes and are unable to pass this tax expense through to our merchant clients, these taxes would negatively impact our profitability.

Risks Particular to Credit Services

If we are unable to securitize our credit card receivables due to changes in the market, the unavailability of credit enhancements, an early amortization event or for other reasons, we would not be able to fund new credit card receivables, which would have a negative impact on our operations and earnings.

Since January 1996, we have sold substantially all of the credit card receivables owned by our credit card bank, World Financial Bank, to World Financial Network Credit Card Master Trust, sometimes through World Financial Network Credit Company, LLC, as part of our securitization program. This securitization program is the primary vehicle through which World Financial Bank finances our private label credit card receivables. If World Financial Bank were not able to regularly securitize the receivables it originates, our ability to grow or even maintain our credit services business would be materially impaired. World Financial Bank's ability to effect securitization transactions is impacted by the following factors, some of which are beyond our control:

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

Once World Financial Bank securitizes receivables, the agreement governing the transaction contains covenants that address the receivables' performance and the continued solvency of the retailer where the underlying sales were generated. In the event one of those or other similar covenants is breached, an early amortization event could be declared, in which case the trustee for the securitization trust would retain World Financial Bank's interest in the related receivables, along with the excess interest income that would normally be paid to World Financial Bank, until such time as the securitization investors are fully repaid. The occurrence of an early amortization event would significantly limit, or even negate, our ability to securitize additional receivables.

Increases in net charge-offs beyond our expectations could have a negative impact on our operating 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 beyond historical levels will reduce the net spread available to us from the securitization master trust and could result in a reduction in finance charge income or a write-down of the interest only strip. 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 among consumers. In addition to being affected

by general economic conditions and the success of our collection and recovery efforts, our delinquency and net credit card receivable charge-off rates are affected by the credit risk of credit card receivables and the average age of our various credit card account portfolios. The average age of credit card receivables affects the stability of delinquency and loss rates of the portfolio. At December 31, 2001, 19.1% of our securitized accounts and 39.7% of our securitized loans were less than 24 months old. For 2001, our securitized net charge-off ratio was 8.4% compared to 7.6% for 2000 and 7.2% for 1999. We cannot assure you that our risk-based pricing strategy can offset the negative impact on profitability

caused by increases in delinquencies and losses. Any material increases in delinquencies and losses beyond our expectations could have a material adverse impact on us and the value of our net retained interests in loans that we sell though securitizations.

Changes in the amount of prepayments and defaults by cardholders on credit card balances may cause a decrease in the estimated value of interest only strips.

The estimated fair value of interest only strips depends upon the anticipated cash flows of the related credit card receivables. A significant factor affecting the anticipated cash flows is the rate at which the underlying principal of the securitized credit card receivables is reduced. Prepayments represent principal reductions in excess of the contractually scheduled reductions. Other assumptions used in estimating the value of the interest only strips include estimated future credit losses and a discount rate commensurate with the risks involved. The rate of cardholder prepayments or defaults on credit card balances may be affected by a variety of economic factors, including interest rates and the availability of alternative financing, most of which are not within our control. A decrease in interest rates could cause cardholder prepayments to increase, thereby requiring a write down of the interest only strips. If prepayments from cardholders or defaults by cardholders exceed our estimates, we may be required to decrease the estimated value of the interest only strips through a charge against earnings.

Interest rate fluctuations could significantly reduce the amount we realize from the spread between the yield on our assets and our cost of funding.

An increase or decrease in market interest rates could have a negative impact on the amount we realize from the spread between the yield on our assets and our cost of funding. A rise in market interest rates may indirectly impact the payment performance of consumers or the value of, or amount we could realize from the sale of, interest only strips. At December 31, 2001, approximately 6.9% of our outstanding debt was subject to fixed rates with a weighted average interest rate of 7.6%. An additional 74.8% of our outstanding debt at December 31, 2001 was locked at an effective interest rate of 6.2% through interest rate swap agreements and treasury locks with notional amounts totaling $1.7 billion. Assuming we do not take any counteractive measures, a 1.0% increase in interest rates would result in a decrease to pretax income of approximately $4.9 million. Conversely, a corresponding decrease in interest rates would result in a comparable improvement to pretax income. The foregoing sensitivity analysis is limited to the potential impact of an interest rate swing of 1.0% on cash flows and fair values, and does not address default or credit risk.

We expect growth in our credit services segment to result from new and acquired private label card programs, whose credit card receivable performance could result in increased portfolio losses and negatively impact our net retained interests in loans securitized.

We expect an important source of growth in our private label card operations to come from the acquisition of existing private label programs and initiating private label programs with retailers who do not currently offer a private label 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 private label programs may result in defaults greater than our

expectations and could have a material adverse impact on us and the value of our net retained interests in loans securitized.

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

Various Federal and state laws and regulations significantly limit the credit 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 customers, limit or prescribe 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 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.

If our bank subsidiary fails to meet credit card bank criteria, we may become subject to regulation under the bank holding company act, which would force us to cease all of our non-banking business activities and thus cause a drastic reduction in our profits and revenue.

Our bank subsidiary, World Financial Bank, is a limited purpose credit card bank. The Bank Insurance Fund, which is administered by the Federal Deposit Insurance Corporation, insures the deposits of World Financial Bank. World Financial Bank is not a "bank" as defined under the Bank Holding Company Act because it is 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 extensions of credit;
- it maintains only one office that accepts deposits; and
- it does not engage in the business of making commercial loans.

If World Financial Bank failed to meet the credit card bank criteria described above, World Financial Bank would be a "bank" as defined by the Bank Holding Company Act, subjecting us to regulation under the Bank Holding Company Act. Being deemed a bank holding company could significantly harm us, as we could be required to either divest any activities deemed to be non-banking activities or cease any activities not permissible for a bank holding company and its affiliates. While the consequences of being subject to regulation under the Bank Holding Company Act would be severe, we believe that the risk of becoming subject to such regulation is minimal as a result of the precautions we have taken in structuring our business.

Risks Particular to Marketing Services

Because we are dependent upon Air Canada, the dominant domestic air carrier in Canada, as a supplier of airline tickets for our AIR MILES Reward Program, we may not be able to meet the needs of our collectors if the capacity made available to us by Air Canada is inadequate to meet our collectors' demands.

Air Canada completed its acquisition of Canadian Airlines in July 2000 and thereby solidified its position as the dominant Canadian domestic airline. Air Canada has merged the operations of Canadian Airlines and consolidated routes resulting in the reduction of routes, flights and seats offered

by the merged airline. As a result of the acquisition, we entered into a new supply agreement with Air Canada that runs through 2004, superseding our prior agreement with Canadian Airlines. Notwithstanding our agreement with Air Canada, we cannot predict what impact route consolidation or elimination or changes in the merged airline's operations

will have on our ability to satisfy and retain active collectors and sponsors of the AIR MILES Reward Program.

The new supply agreement with Air Canada contains reductions in the guarantee related to the number of tickets available at contractual rates on certain routes after December 31, 2002. Once these capacity guarantees on certain routes are reduced in 2003, we may be required to meet the demands of collectors by purchasing tickets from other carriers. These tickets could be more expensive than a comparable ticket under the Air Canada agreement, and the routes offered by the other airlines may be inconvenient or undesirable to the redeeming collectors. As a result, we may experience higher air travel redemption costs in 2003 and 2004 than we are currently experiencing, while at the same time collector satisfaction with the AIR MILES Reward Program may be adversely affected by requiring travel on other carriers on certain routes.

If actual redemptions by collectors of AIR MILES reward miles are greater than expected, our revenues and 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 unredeemed reward miles is known as "breakage" in the loyalty industry. While our AIR MILES reward miles currently do not expire, reward miles are not redeemed by collectors for a number of reasons, including:

- loss of interest in the program or sponsors;
- collectors moving out of the program area; and
- death of a collector.

If actual redemptions are greater than our estimates, our revenues and profitability could be adversely affected.

The loss of our most active AIR MILES reward miles collectors could negatively impact our growth and profitability.

Our most active AIR MILES reward miles collectors represent a disproportionately large percentage of our AIR MILES reward program revenue. During 2001, we estimate that over half of the AIR MILES Reward Program revenues are derived from our most active AIR MILES reward miles collectors. The loss of a significant portion of these collectors, for any reason, could impact our ability to generate significant revenue from sponsors and loyalty partners. 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.

Travel industry disruptions, similar to the catastrophic events of September 11, 2001, could negatively affect the AIR MILES Reward Program, our revenues and profitability.

Travel is a major appeal of the AIR MILES Reward Program to collectors. Collectors could determine that travel is too dangerous and that the program is not as valuable and sponsors could lose loyal collectors. A reduction in collector use of the program could impact our ability to attract new sponsors and loyalty partners and to generate revenue from current sponsors and loyalty partners.

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

The enactment of legislation or industry regulations arising from public concern over consumer privacy issues could have a material adverse impact on our marketing services. Any such legislation or industry regulations could place restrictions upon the collection and use of information that is currently legally available, which could materially increase our cost of collecting some data. Legislation or industry regulation could also prohibit us from collecting or disseminating certain types of data, which could adversely affect our ability to meet our clients' requirements.

The Gramm-Leach-Bliley Act, which became law in November 1999, makes it more difficult to collect and use information that has been legally available and may increase our costs of collecting some data. New regulations under this act that took effect in July 2001 give cardholders the ability to "opt out" of having information generated by their credit card purchases shared with other parties or the public. Our ability to gather 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 from using their data. Under the regulations, we are required to refrain from using data generated by our existing cardholders and new cardholders until such cardholders are given the opportunity to opt out.

Similarly, the Personal Information Protection and Electronic Documents Act enacted in Canada 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. The Loyalty Group allows its customers to voluntarily "opt out" from either promotional mail or electronic mail. Heightened consumer awareness of, and concern about, privacy may encourage more customers to "opt out" at higher rates than they have historically. This would mean that a reduced number of customers would receive bonus mile offers and therefore would collect fewer AIR MILES reward miles.

Risks Related to Our Company

Some of our stockholders currently own a significant amount of our common stock. These stockholders may have interests that conflict with yours and would be able to control the election of directors and the approval of significant corporate transactions, including a change in control.

Limited Commerce Corp. and the affiliated entities of Welsh, Carson, Anderson & Stowe beneficially owned approximately 19.7% and 58.8%, respectively, of our outstanding common stock as of December 31, 2001. Through a stockholders agreement, Limited Commerce Corp. has the right to designate up to two members of our board of directors and Welsh Carson has the ability to designate up to three members of our board of directors. As a result, these stockholders are able to exercise significant influence over, and in most cases control, matters requiring stockholder approval, including the election of directors, changes to our charter documents and significant corporate transactions. This concentration of ownership makes it unlikely that any other holder or group of holders of common stock will be able to affect the way we are managed or the direction of our business. Limited Commerce Corp. and Welsh Carson may have interests that conflict with the interests of our company or other stockholders. Their continued concentrated ownership will make it impossible for another company to acquire us and for you to receive any related takeover premium for your shares unless they approve the acquisition.

Delaware law and our charter documents could prevent a change of control that might be beneficial to you.

Delaware law, as well as provisions of our certificate of incorporation and bylaws, could discourage unsolicited proposals to acquire us, even though such proposals may be beneficial to you. These provisions 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 stockholder approval; and
-

provisions of Delaware law that restrict many business combinations and provide that directors serving on staggered boards of directors, such as ours, may be removed only for cause.

These provisions of our certificate of incorporation, bylaws and Delaware law could discourage tender offers or other transactions that might otherwise result in our stockholders receiving a premium over the market price for our common stock.

Future sales of our common stock may adversely affect our common stock price.

We may pursue acquisitions of competitors and related businesses and may issue shares of our common stock in connection with these acquisitions. As of December 31, 2001, we had an aggregate of 115,760,000 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 also reserved 10,253,000 shares of our common stock for issuance under our stock option and restricted stock plan and employee stock purchase plan, of which 7,090,960 shares are issuable upon vesting of restricted stock awards and upon exercise of options granted as of December 31, 2001, including options to purchase approximately 2,615,000 shares exercisable as of December 31, 2001 or that will become exercisable within 60 days after December 31, 2001. We have reserved 1,500,000 shares of our common stock for issuance under our 401(k) and Retirement Savings Plan. 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 dilute the percentage ownership held by our stockholders. In addition sales of a substantial number of shares of common stock by The Limited or Welsh Carson, or the perception that such sales could occur, could also adversely affect prevailing market prices of our common stock.

Item 2. Properties

We have several facilities throughout the United States, Canada, and New Zealand. As of December 31, 2001, we lease over 30 general office properties, comprising over 1.5 million square feet. These facilities are used to carry out our operational, sales and administrative functions. Our material facilities are as follows:

Location	Segment	Approximate Square Footage	Lease Expiration Date
Dallas, Texas	Corporate, Transaction Services	230,061	October 10, 2010
Columbus, Ohio	Credit Services	103,161	January 1, 2008
Columbus, Ohio	Credit Services	100,800	May 31, 2006
San Antonio, Texas	Transaction Services	67,540	January 1, 2003
Toronto, Ontario, Canada	Marketing Services	137,411	September 16, 2007

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 incidental to our business, including claims and lawsuits alleging breaches of contractual obligations.

On November 16, 2000, in the United States District Court, Southern District of Florida, Miami Division, a group of World Financial Bank cardholders filed a putative class action complaint against World Financial Bank. The plaintiffs, individually and on behalf of all others similarly situated, commenced the action alleging that World Financial Bank engaged in a systematic program of false, misleading, and deceptive practices to improperly bill and collect consumer debts from thousands of cardholders. The suit stems from World Financial Bank's alleged practices involved in calculating finance charges and in crediting cardholder payments on the next business day if received after 6:30 a.m. The plaintiffs contend that such practices are deceptive and result in the imposition of excessive finance charges and other penalties to cardholders. The plaintiffs allege that World Financial Bank, through such practices, has violated the federal Fair Credit Billing Act, the federal Truth-In Lending Act and breached cardholder contracts. The court has dismissed other claims brought by the plaintiffs under Florida state consumer protection statutes, ruling that Florida law is inapplicable to the suit. The plaintiffs have not specified an amount of damages, but have requested, individually and on behalf of a putative class, monetary and punitive damages for the alleged stated claims and permanent injunctions for alleged statutory violations. The complaint was subsequently amended to include our subsidiary, ADS Alliance Data Systems, Inc., as a defendant. We are in the pre-trial discovery phase. We believe these allegations are without merit and intend to defend this matter vigorously.

Item 4. Submission of Matters to a Vote of Security Holders

There were no matters submitted to a vote of the security holders during the fourth quarter of 2001.

PART II

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters

We began trading on the New York Stock Exchange on June 8, 2001 under the symbol ADS. As of March 1, 2002, we had approximately 78 record holders and approximately 3,100 non-objecting beneficial holders, exclusive of any holders through our company sponsored employee benefit plans. On March 1, 2002, the closing sales price for our common stock was $21.52 per share. The following table sets out the high and low closing sales prices for our common stock for each full quarterly period since June 8, 2001.

Period	High	Low
2001		
Fourth Quarter	$ 19.15	$ 14.33
Third Quarter	$ 16.75	$ 11.35
Second Quarter (June 8 to June 30)	$ 15.11	$ 12.86

We have never declared or paid any 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 future earnings, if any, to finance operations 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 cannot declare or pay dividends or return capital to our common stockholders, nor can we authorize or make any other distribution, payment or delivery of property or cash to our common stockholders.

Recent Sales of Unregistered Securities

Simultaneously with the closing of our initial public offering in June 2001, we converted all of our outstanding shares of Series A cumulative convertible preferred stock into approximately 11,199,340 shares of common stock. In addition, during 2001, options to purchase approximately 2,844,000 shares of our common stock and 26,940 shares of our common stock were issued pursuant to the exercise of options under our stock option and restricted stock plan prior to the registration of the shares subject to the plan. The sales of the shares of our common stock issued pursuant to options were not registered under the Securities Act of 1933, as amended. The sales and issuances of the shares of common stock described above were exempt from registration under the Securities Act in reliance upon Section 4(2) of the Securities Act and Rule 701 promulgated under Section 3(b) of the Securities Act, as transactions by an issuer not involving any public offering and transactions pursuant to compensatory benefit plans and contracts relating to compensation as provided under Rule 701.

Use of Proceeds from Registered Securities

On June 13, 2001, we completed our initial public offering, which consisted of the sale of 14,950,000 shares, including exercise of the underwriters' over-allotment option, of our common stock at a price to the public of $12.00 per share pursuant to a Registration Statement on Form S-1, File No. 333-94623. There were no selling security holders who participated in the initial public offering. Our initial public offering commenced on June 7, 2001 when the Registration Statement was declared effective by the SEC. The managing underwriters were Bear, Stearns & Co. Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and Credit Suisse First Boston Corporation. Aggregate proceeds from the offering were $179.4 million.

In connection with our initial public offering, we incurred total expenses of approximately $18.6 million, including underwriting discounts and commissions of approximately $12.6 million and

approximately $6.0 million in other expenses. After deducting expenses, we received net offering proceeds of approximately $160.8 million. We used proceeds of approximately $90.8 million to repay in full the outstanding balance of a term loan and approximately $500,000 was used to repurchase a then outstanding warrant for 167,084 shares of our common stock. The remaining proceeds were used to pay down additional debt and support our securitization program, acquisition and other working capital requirements. No payments of expenses or uses of net proceeds constituted direct or indirect payments to any of our directors, officers or general partners or their associates, persons owning 10% or more of any class of our equity securities, or to any of our affiliates.

Item 6. Selected Financial Data

SELECTED HISTORICAL CONSOLIDATED FINANCIAL AND OPERATING INFORMATION

We are the result of a 1996 merger of two entities acquired by Welsh, Carson, Anderson & Stowe—J.C. Penney's transaction services business, BSI Business Services, Inc., and The Limited's credit card bank operation, World Financial Bank. Prior to December 31, 1998, our fiscal year was based on a 52/53 week fiscal year ending on the Saturday closest to January 31. We have since changed our fiscal year end to December 31. Fiscal 1998 represents the eleven month period ended December 31, 1998. The following table sets forth our summary historical financial information for the periods ended and as of the dates indicated. Full year information is derived from financial statements that were audited by Deloitte & Touche LLP. You should read the following historical financial information along with Management's Discussion and Analysis of Financial Condition and Results of Operations contained in this Form 10-K, including the financial statements and related notes that are included in this Form 10-K.

	Fiscal period				
	1997	1998	1999	2000	2001
	(amounts in thousands, except per share amounts)				
Income statement data					
Total revenue	$ 353,399	$ 410,913	$ 583,082	$ 678,195	$ 777,351
Cost of operations	273,145	335,804	466,856	547,985	603,493
General and administrative expenses	15,302	17,589	35,971	32,201	45,431
Depreciation and other amortization	7,402	8,270	16,183	26,265	30,698
Amortization of purchased intangibles	28,159	43,766	61,617	49,879	43,506
Total operating expenses	324,008	405,429	580,627	656,330	723,128
Operating income	29,391	5,484	2,455	21,865	54,223
Other non-operating expenses	—	—	—	2,477	5,000
Fair value loss on interest rate derivative	—	—	—	—	15,131
Interest expense	15,459	27,884	42,785	38,870	30,097
Income (loss) from continuing operations before income taxes, discontinued operations and extraordinary item	13,932	(22,400)	(40,330)	(19,482)	3,995
Income tax expense (benefit)	5,236	(4,708)	(6,538)	1,841	11,612
Income (loss) from continuing operations before discontinued operations and extraordinary item	8,696	(17,692)	(33,792)	(21,323)	(7,617)
Income (loss) from discontinued operations, net of taxes	(8,247)	(300)	7,688	—	—
Loss on disposal of discontinued operations, net of taxes	—	—	(3,737)	—	—
Extraordinary item, net	—	—	—	—	(615)
Net income (loss)	$ 449	$ (17,992)	$ (29,841)	$ (21,323)	$ (8,232)
Income (loss) per share from continuing operations—basic and diluted (before extraordinary item)	$ 0.24	$ (0.42)	$ (0.78)	$ (0.60)	$ (0.17)
Net income (loss) per share—basic and diluted	$ 0.01	$ (0.43)	$ (0.70)	$ (0.60)	$ (0.18)
Weighted average shares used in computing per share amounts—basic and diluted	36,612	41,729	47,498	47,538	64,555
Calculation of Operating EBITDA(1):					
Operating income	$ 29,391	$ 5,484	$ 2,455	$ 21,865	$ 54,223
Depreciation and other amortization	7,402	8,270	16,183	26,265	30,698
Amortization of purchased intangibles	28,159	43,766	61,617	49,879	43,506

EBITDA	64,952	57,520	80,255	98,009	128,427
Plus change in deferred revenue	—	20,729	91,149	40,845	39,363
Less change in redemption settlement assets	—	(11,838)	(63,472)	(18,357)	1,677
Operating EBITDA	$ 64,952	$ 66,411	$ 107,932	$ 120,497	$ 169,467
Operating EBITDA as a percentage of revenue	18.4%	16.2%	18.5%	17.8%	21.8%
Cash flows from operating activities	$ (30,678)	$ 9,311	$ 251,638	$ 87,183	$ 169,681
Cash flows from investing activities	(103,746)	(145,386)	(309,451)	(24,457)	(192,408)
Cash flows from financing activities	104,870	163,282	74,929	1,144	32,497

	Fiscal period				
	1997	1998	1999	2000	2001
	(amounts in thousands)				
Segment operating data					
Transactions processed	929,274	1,073,040	1,839,857	2,519,535	2,754,105
Statements generated	113,940	117,672	132,817	127,217	131,253
Average securitized portfolio	$ 1,615,196	$ 1,905,927	$ 2,004,827	$ 2,073,574	$ 2,197,935
Credit sales	$ 3,001,029	$ 2,866,062	$ 3,132,520	$ 3,685,069	$ 4,050,554
AIR MILES reward miles issued	—	611,824	1,594,594	1,927,016	2,153,550
AIR MILES reward miles redeemed	—	158,281	529,327	781,823	984,926

	As of				
	January 31, 1998	December 31, 1998	December 31, 1999	December 31, 2000	December 31, 2001
	(amounts in thousands)				
Balance sheet data					
Cash and cash equivalents	$ 20,595	$ 47,036	$ 56,546	$ 116,941	$ 117,535
Credit card receivables and seller's interest	144,440	139,458	150,804	137,865	128,793
Redemption settlement assets, restricted	—	70,178	133,650	152,007	150,330
Intangibles and goodwill, net	93,909	362,797	493,609	444,549	491,997
Total assets	619,901	1,091,008	1,301,263	1,421,179	1,477,218
Deferred revenue—service and redemption	—	158,192	249,341	290,186	329,549
Certificates of deposit and other receivables funding debt	50,900	49,500	116,900	139,400	120,800
Short-term debt	82,800	98,484	—	—	—
Credit agreement and subordinated debt	180,000	332,000	318,236	296,660	189,625
Total liabilities	415,145	796,203	921,791	1,058,788	971,490
Series A preferred stock	—	—	119,400	119,400	—
Total stockholders' equity	204,756	294,805	260,072	242,991	505,728

(1) Operating EBITDA is equal to operating income plus depreciation and amortization and the change in deferred revenue less the change in redemption settlement assets. We have presented operating EBITDA because we use it to monitor compliance with the financial covenants in our amended credit agreement, such as debt-to-operating EBITDA, interest coverage ratios and minimum operating EBITDA. We also use operating EBITDA as an integral part of our internal reporting to measure the performance and liquidity of our reportable segments. In addition, operating EBITDA eliminates the uneven effect across all segments of considerable amounts of non-cash amortization of purchased intangibles recognized in business combinations accounted for under the purchase method. Operating 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 the statement of cash flows as a measure of liquidity. In addition, operating 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 generally accepted accounting principles. The operating EBITDA measure presented in this Form 10-K may not be comparable to similarly titled measures presented by other companies.

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

Overview

We operate in three business segments: Transaction Services, Credit Services and Marketing Services.

The Transaction Services segment includes issuer services, merchant services and utility services. Merchant services provides merchants, primarily in the petroleum and retail sectors, with credit and debit card transaction processing services, including authorization, capture and settlement activities. Issuer services include card processing, billing and payment processing and customer care for private label credit cards. Utility services include billing and payment processing and customer care for both de-regulated and regulated customers. The Transaction Services segment primarily generates revenue based on the number of transactions processed, statements mailed and customer calls handled. Operating costs for this segment include salaries and employee benefits, processing and servicing expense, such as data processing, postage, telecommunications and equipment lease expense.

The Credit Services segment provides underwriting, risk management, merchant processing and receivables financing primarily for specialty retail clients. The Credit Services segment derives its revenue from the servicing fees and net financing income it receives from the securitization trusts. Credit Services also receives merchant discount fees from clients, which are determined based on a percentage of credit sales charged to our private label card accounts. Operating costs for the Credit Services segment include salaries and employee benefits processing and servicing expense, which includes credit bureau, postage, telephone and data processing expenses and a portion of interest expense.

The Marketing Services segment includes coalition loyalty, one-to-one loyalty and database marketing services for a wide range of industries. The majority of the revenue of the Marketing Services segment is generated by our Canadian-based AIR MILES Reward Program. The Marketing Services segment also generates revenue from building and maintaining marketing databases as well as managing and marketing campaigns or projects we perform for our clients. Operating costs for this segment include salaries and employee benefits, redemption costs of the AIR MILES Reward Program, marketing, data processing and postage.

Significant Developments

In 2001, Transaction Services increased its presence in the utility services sector with the signing of three new long-term contracts: Potomac Energy Power Company, Georgia Natural Gas, and Puget Sound Energy. We also acquired a regulated billing platform that will allow us to target a new set of clients. In 2001, the Credit Services segment established several new relationships with specialty retailers including both conversions of existing programs and start-up of new programs. The AIR MILES Reward Program completed a significant milestone in 2001 by completing national coverage in its grocery sector, the key sponsorship relationship in the program.

Significant Accounting Policies

We utilize a securitization program to finance substantially all of the credit card receivables that we underwrite. Our securitization trusts allow us to sell credit card receivables to the trusts on a daily basis. As a result, our Credit Services segment derives its revenue from the servicing fees and net financing income it receives from the securitization trusts.

We record gains or losses on the securitization of credit card receivables on the date of sale based on cash received and on the estimated fair value of assets retained and liabilities incurred in the sale. Gains represent the present value of the anticipated cash flows we have retained over the estimated outstanding period of the receivables. This anticipated excess cash flow essentially represents an interest

only strip, consisting of the excess of finance charges and past-due fees net of the sum of the return paid to certificateholders, estimated contractual servicing fees and credit losses. The amount initially allocated to the interest only strip at the date of a securitization reflected the allocated original basis of the relative fair values of those interests. The amount recorded for the interest only strip was reduced for distributions on interest only strip, which we received from the related trust, and was adjusted for changes in the fair value of the interest only strip, which were reflected in other comprehensive income. Because there is not a highly liquid market for these assets, we estimated the fair value of the interest only strip primarily based upon discount, prepayment and default rates we estimate that another market participant would use to purchase the interest only strip. The estimated market assumptions were applied based upon the underlying loan portfolio grouped by loan types, terms, credit quality, interest rates, geographic location, and value of loan collateral, which are the predominant characteristics that affect prepayment and default rates.

In recording and accounting for interest only strip, we made assumptions, which we believed reasonably reflected economic and other relevant conditions that affect fair value, which were then in effect, about rates of prepayments, and defaults and the value of collateral. Due to subsequent changes in economic and other relevant conditions, the actual rates of prepayments and defaults and the value of the collateral generally differed from our initial estimates, and these differences were sometimes material. If actual prepayments and default rates were higher than previously assumed, the value of the interest only strip would be impaired and the declines in the fair value would be recorded in earnings.

Our Marketing Services segment generates the majority of its revenue from our AIR MILES Reward Program. Under this program, we receive proceeds from our sponsors based on the number of AIR MILES reward miles issued to collectors. The proceeds from issuances of AIR MILES reward miles are allocated into two components based on the relative fair value of the related element: the redemption element and the service element.

- Redemption element: the redemption element is the larger of the two components. For this component, we recognize revenue at the time an AIR MILES reward mile is redeemed, or, for those 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 direct marketing and administrative services provided to sponsors, we recognize revenue pro-rata over the estimated life of an AIR MILES reward mile.

On certain of our contracts, a portion of the proceeds is paid at the issuance of AIR MILES reward miles and a portion is paid at the time of redemption. The proceeds received at issuance are initially deferred as service revenue and the revenue and earnings are recognized pro rata over the estimated life of an AIR MILES reward mile.

Inter-Segment Sales

Our Transaction Services segment performs card processing and servicing activities related to our Credit Services segment. For this, our Transaction Services segment receives a fee equal to its direct costs before corporate overhead plus a margin. The margin is based on current market rates for similar services. This fee represents an operating cost to the Credit Services segment and a corresponding revenue for Transaction Services.

Use of EBITDA and Operating EBITDA

We evaluate operating performance based on several factors of which the primary financial measure is operating income plus depreciation and amortization, or "EBITDA." EBITDA is presented because it is an integral part of our internal reporting and performance evaluation for senior

management. EBITDA eliminates the uneven effect across all segments of considerable amounts of non-cash amortization of purchased intangibles recognized in business combinations accounted for under the purchase method. In addition, we use operating EBITDA to monitor compliance with the financial covenants in our amended credit agreement such as debt-to-operating EBITDA, interest coverage ratios and minimum operating EBITDA. We also use operating EBITDA to measure the performance and liquidity of our reportable segments. EBITDA and operating EBITDA are 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 the statement of cash flows as a measure of liquidity. In addition, EBITDA and operating EBITDA are 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 generally accepted accounting principles. The EBITDA and operating EBITDA measures presented in this Form 10-K may not be comparable to similarly titled measures presented by other companies.

Results of Operations

Year ended December 31, 2000 compared to the year ended December 31, 2001

	Year ended December 31,					
	Revenue		EBITDA		Operating income	
	2000	2001	2000	2001	2000	2001
	(amounts in thousands)					
Transaction Services	$ 439,376	$ 503,178	$ 54,764	$ 70,066	$ 13,017	$ 25,351
Credit Services	268,183	289,420	25,318	29,159	24,059	25,689
Marketing Services	178,214	201,651	17,927	29,202	(15,211)	3,183
Other and eliminations	(207,578)	(216,898)	—	—	—	—
Total	$ 678,195	$ 777,351	$ 98,009	$ 128,427	$ 21,865	$ 54,223

	Year ended December 31,					
	Percentage of revenue		EBITDA margin		Operating margin	
	2000	2001	2000	2001	2000	2001

Transaction Services	64.8%	64.7%	12.5%	13.9%	3.0%	5.0%
Credit Services	39.5	37.2	9.4	10.1	9.0	8.9
Marketing Services	26.3	25.9	10.1	14.5	(8.5)	1.6
Other and eliminations	(30.6)	(27.8)	—	—	—	—
Total	100.0%	100.0%	14.5%	16.5%	3.2%	7.0%

Revenue. Total revenue increased $99.2 million, or 14.6%, to $777.4 million for 2001 from $678.2 million for 2000. The increase was due to a 14.5% increase in Transaction Services revenue, a 7.9% increase in Credit Services revenue and a 13.2% increase in Marketing Services revenue as follows:

- *Transaction Services.* Transaction Services revenue increased $63.8 million, or 14.5%, primarily due to an increase in the number of transactions processed and an increase in account processing in the utililties sector. Revenue related to transactions processed increased approximately $10.5 million as a result of a 9.3% increase in the number of transactions processed, partially offset by a decrease in the average price per transaction. A significant portion of the increase in transactions processed occurred among the large volume clients in the petroleum industry with a lower price per transaction. Fees related to account processing and servicing increased $46.2 million during 2001 primarily from the increase in the number of utility services related statements. The increase in utility services related statements has resulted in

increased revenue per statement, as we provide more services for utility services related statements. The increase in the number of utility services related statements is a result of three new long-term contracts signed in 2001. Additionally, inter-segment sales increased $9.7 million during 2001 as a result of increased account processing and servicing for our Credit Services segment due to an increase in the number of private label cardholders.

- *Credit Services.* Credit Services revenue increased $21.2 million, or 7.9%, due to increases in merchant discount fees, servicing fees and finance charges, net. Servicing fee income increased by $4.0 million, or 10.7%, during 2001 due to an increase in the average outstanding balance of the securitized credit card receivables. Finance charges, net, increased $12.4 million, or 8.0%, during 2001 as a result of a 6.0% higher average outstanding securitized portfolio. The net yield on our retail portfolio for 2001 was approximately 40 basis points less than in 2000. The decrease in the net yield is largely related to higher net charge-off rates in 2001, partially offset by lower cost of funds in the second half of the year.

- *Marketing Services.* Marketing Services revenue increased $23.4 million, or 13.2%, primarily due to an increase in reward revenue related to a 26.0% increase in the redemption of AIR MILES reward miles. Additionally, services revenue increased 12.2% as a result of an 11.8% increase in the number of AIR MILES reward miles issued and the corresponding recognition of deferred revenue balances. As a result of the increased issuance activity, our deferred revenue balance increased 13.6% to $329.5 million at December 31, 2001 from $290.2 million at December 31, 2000.

Operating Expenses. Total operating expenses, excluding depreciation and amortization, increased $68.7 million, or 11.8%, to $648.9 million for 2001 from $580.2 million for 2000. Total EBITDA margin increased to 16.5% for 2001 from 14.5% for 2000. The increase in EBITDA margin is due to increases in Transaction Services, Credit Services and Marketing Services margins.

- *Transaction Services.* Transaction Services operating expenses, excluding depreciation and amortization, increased $48.5 million, or 12.6%, to $433.1 million for 2001 from $384.6 million for 2000, and EBITDA margin increased to 13.9% for 2001 from 12.5% for 2000. The increase in EBITDA margin is the result of operational efficiencies achieved in our merchant services business and increased statement volumes and revenue per statement in the utility services sector.

- *Credit Services.* Credit Services operating expenses, excluding depreciation and amortization, increased $17.4 million, or 7.2%, to $260.3 million for 2001 from $242.9 million for 2000, and EBITDA margin increased to 10.1% for 2001 from 9.4% for 2000. The increase in EBITDA margin is the result of lower cost of funds offset by an increase in net charge-offs.

- *Marketing Services.* Marketing Services operating expenses, excluding depreciation and amortization, increased $12.1 million, or 7.6%, to $172.4 million for 2001 from $160.3 million for 2000, and EBITDA margin increased to 14.5% for 2001 from 10.1% for 2000. The increase in the margin is attributable to increased revenue and the leveraging of the existing infrastructure.

- *Depreciation and Amortization.* Depreciation and amortization decreased $1.9 million, or 2.5%, to $74.2 million for 2001 from $76.1 million for 2000. The decrease is primarily due to a decrease in amortization of purchased intangibles of $6.4 million related to certain purchased intangibles becoming fully amortized during the year, offset in part by new capital expenditures in 2001.

Operating Income. Operating income increased $32.3 million, or 147.5%, to $54.2 million for 2001 from $21.9 million for 2000. Operating income increased primarily from revenue gains with modest expansion of EBITDA margins and a decrease in depreciation and amortization.

Interest Expense. Interest expense decreased $8.8 million, or 22.6%, to $30.1 million for 2001 from $38.9 million for 2000 due to our use of approximately $90.8 million of proceeds from our initial public offering to repay in full a term loan, which resulted in a decrease in average debt outstanding and lower rates.

Fair Value Loss on Derivatives. During 2001, we incurred a $15.1 million non-cash fair value loss on an interest rate swap following the adoption of SFAS No. 133 on January 1, 2001. In accordance with Statement of Financial Accounting Standards ("SFAS"), No. 133, fair value changes in derivative instruments that do not meet the accounting criteria for hedge treatment are recorded as part of earnings. The related derivative is a $200.0 million notional interest rate swap that swaps a LIBOR based variable interest rate for a LIBOR based fixed interest rate.

Taxes. Income tax expense increased $9.8 million to $11.6 million for 2001 from $1.8 million in 2000 due to an increase in taxable income. Our effective rate for 2001 was approximately 290.7% and is most significantly impacted by the non-deductibility of a portion of our amortization of purchased intangibles. During 2001, the Canadian corporate income tax rate was lowered. As a result, we recorded $5.7 million of income tax expense to reduce our net deferred tax assets in Canada.

Transactions with The Limited. Revenue from The Limited and its affiliates, which includes merchant and database marketing fees, decreased $3.2 million to $43.5 million for 2001 from $46.7 million for 2000, partially as a result of the sale of Lane Bryant by The Limited. Excluding the effect of the Lane Bryant sale, the decrease would have been $2.2 million. We generate a significant amount of additional revenue from our cardholders who are customers of The Limited and its affiliates.

Year ended December 31, 1999 compared to the year ended December 31, 2000

	Year ended December 31,					
	Revenue		EBITDA		Operating income	
	1999	2000	1999	2000	1999	2000

	(amounts in thousands)					
Transaction Services	$ 381,115	$ 439,376	$ 41,828	$ 54,764	$ 13,014	$ 13,017
Credit Services	247,824	268,183	29,803	25,318	17,743	24,059
Marketing Services	138,310	178,214	8,624	17,927	(28,302)	(15,211)
Other and eliminations	(184,167)	(207,578)	—	—	—	—
Total	$ 583,082	$ 678,195	$ 80,255	$ 98,009	$ 2,455	$ 21,865

	Year ended December 31,					
	Percentage of revenue		EBITDA margin		Operating margin	
	1999	2000	1999	2000	1999	2000
Transaction Services	65.4%	64.8%	11.0%	12.5%	3.4%	3.0%
Credit Services	42.5	39.5	12.0	9.4	7.2	9.0
Marketing Services	23.7	26.3	6.2	10.1	(20.5)	(8.5)
Other and eliminations	(31.6)	(30.6)	—	—	—	—
Total	100.0%	100.0%	13.8%	14.5%	0.4%	3.2%

Revenue. Total revenue increased $95.1 million, or 16.3%, to $678.2 million for 2000 from $583.1 million for 1999. The increase was due to a 15.3% increase in Transaction Services revenue, an 8.2% increase in Credit Services revenue and a 28.9% increase in Marketing Services revenue as follows:

- *Transaction Services.* Transaction Services revenue increased $58.3 million, or 15.3%, due primarily to an increase in the number of transactions processed. Revenue related to transactions processed increased approximately $30.0 million as a result of a 36.9% increase in the number of transactions processed, partially offset by a decrease in the average price per transaction. The increase in the number of transactions is primarily related to the July 1999 acquisition of SPS with the remaining increase resulting from an increase in the number of transactions processed for existing customers. A significant portion of the increase in transactions processed occurred among the large volume clients in the petroleum industry with a lower price per transaction. Fees related to account processing and servicing increased $26.0 million during 2000 from 1999 primarily due to increased inter-segment sales of $22.1 million during 2000 as a result of increased account processing and servicing for our Credit Services segment due to an increase in the number of private label cardholders. The remaining portion of the increase resulted from new sales related to our utilities sector offset by a decrease in the number of statements generated as a result of a lost client in the petroleum sector.

- *Credit Services.* Credit Services revenue increased $20.4 million, or 8.2%, due to increases in merchant discount fees, servicing fees and finance charges, net. Servicing fee income increased by $3.5 million, or 10.4%, during 2000 due to an increase in the average outstanding balance of the securitized credit card receivables we service. Finance charges, net, increased $14.3 million, or 10.0%, during 2000 as a result of a 3.4% higher average outstanding securitized portfolio. A liquidating portfolio adversely impacted the average outstanding securitized portfolio. Excluding the effect of the liquidating portfolio, the average outstanding securitized portfolio would have grown by 11.7% in 2000. The net yield for 2000 was 45 basis points higher than in 1999. Private label merchant discount fee income increased by $3.2 million, or 4.7%, during 2000 as a result of increased charge volumes. This increase was offset by a change in a specific program for one of our clients, where merchant discount fee revenue from this client is now recorded as finance charge income.

- *Marketing Services.* Marketing Services revenue increased $39.9 million, or 28.9%, primarily due to an increase in reward revenue related to a 39.2% increase in the redemption of AIR MILES reward miles. Additionally, services revenue increased 15.5% as a result of a 19.4% increase in the number of AIR MILES reward miles issued and the recognition of deferred revenue balances. As a result of the increased issuance activity, our deferred revenue balance increased 16.4% to $290.2 million at December 31, 2000 from the balance at December 31, 1999.

Operating Expenses. Total operating expenses, excluding depreciation and amortization, increased $77.4 million, or 15.4%, to $580.2 million for 2000 from $502.8 million for 1999. Total EBITDA margin increased to 14.5% for 2000 from 13.8% for 1999. The increase in EBITDA margin is due to increases in Transaction Services and Marketing Services margins, partially offset by a decrease in the Credit Services margin.

- *Transaction Services.* Transaction Services operating expenses, excluding depreciation and amortization, increased $44.0 million, or 13.0%, to $383.2 million for 2000 from $339.2 million for 1999, and EBITDA margin increased to 12.5% for 2000 from 11.0% for 1999. The increase in EBITDA margin is primarily the result of operational efficiencies achieved in our network business related to the SPS acquisition.

- *Credit Services.* Credit Services operating expenses, excluding depreciation and amortization, increased $24.9 million, or 11.4%, to $242.9 million for 2000 from $218.0 million for 1999, and EBITDA margin decreased to 9.4% for 2000 from 12.0% for 1999. The decrease in EBITDA margin is the result of increased processing costs from our Transaction Services segment of $22.1 million associated with a higher number of private label cardholders. Additionally, the

EBITDA margin was adversely impacted by the previously mentioned change in a client's program. The new program is financed off-balance sheet in a securitization trust, which generates lower EBITDA margin than the previous program.

- *Marketing Services.* Marketing Services operating expenses, excluding depreciation and amortization, increased $30.6 million, or 23.6%, to $160.3 million for 2000 from $129.7 million for 1999, and EBITDA margin increased to 10.1% for 2000 from 6.2% for 1999. The increase in the margin is attributable to increased revenue and the leveraging of the marketing, payroll and other operating costs in 2000. Non-redemption expenses decreased to 47.8% of revenue for 2000 from 52.9% for 1999. The EBITDA margin increase was offset by the approximate $7.0 million in non-recurring redemption related costs as a result of the transition of primary reward suppliers from Canadian Airlines to Air Canada following their merger. Normally, we are able to purchase airline tickets at a contractually determined discount. Prior to the Air Canada merger, we had a long-term supply contract with Canadian Airlines. During the second quarter of 2000, we entered into a new supply agreement with Air Canada in order to help maintain a supply of airline seats for our collectors of AIR MILES reward miles. Prior to signing our supply agreement with Air Canada, our supply of seats was constrained due to the reduction and/or elimination of some of Canadian Airlines' routes. Based on our new supply agreement and other factors, we do not anticipate incurring redemption costs in 2001 at a level greater than what we have historically experienced. Excluding the $7.0 million of additional redemption costs, EBITDA margin for 2000 would have been 14.0%.

In January 2000, we increased the number of AIR MILES reward miles required to redeem some air travel rewards. We periodically review our reward offers to collectors and will continue to seek ways to contain the overall cost of the program and make changes to enhance the program's value to collectors.

EBITDA margin for 1999 was affected by approximately $3.3 million of marketing and payroll costs associated with the start-up of a new business-to-business loyalty program in Canada.

- *Depreciation and Amortization.* Depreciation and amortization decreased $1.7 million, or 2.2%, to $76.1 million for 2000 from $77.8 million for 1999 due to a decrease in amortization of purchased intangibles of $11.7 million. This decrease resulted from a decrease in amortization expense for some of the intangibles related to the acquisition of the former J. C. Penney businesses and the premium on a purchased credit card portfolio that was fully amortized, partially offset by amortization related to the SPS acquisition and an increase in capital expenditures in 1999, especially software development costs that have relatively short amortization periods.

Operating Income. Operating income increased $19.4 million, or 776.0%, to $21.9 million for 2000 from $2.5 million for 1999. Operating income increased primarily from revenue gains with modest expansion of EBITDA margins and a decrease in depreciation and amortization.

Interest Expense. Interest expense decreased $3.9 million, or 9.1%, to $38.9 million for 2000 from $42.8 million for 1999 due to a decrease in average debt. This decrease in average debt was primarily due to the termination of a receivable financing program in the fourth quarter of 1999.

Taxes. Income tax expense increased $8.3 million to a $1.8 million income tax expense for 2000 from a $6.5 million income tax benefit in 1999 due to an increase in taxable income.

Discontinued Operations. During September 1999, we discontinued our subscriber services business when our principal customer for this service was acquired by a third party. For 1999, discontinued operations had income of $4.0 million, net of income tax.

Transactions with The Limited. Revenue from The Limited and its affiliates, which includes merchant and database marketing fees, increased $100,000 to $46.7 million for 2000 from $46.6 million for 1999. The increase was primarily the result of increased database marketing fees offset by a small decrease in merchant discount fees. We generate a significant amount of additional revenue from our cardholders who are customers of The Limited and its affiliates.

Asset Quality

Our delinquency and net charge-off rates reflect, among other factors, the credit risk of credit card receivables, the average age of our various credit card account portfolios, the success of our collection and recovery efforts, and general economic conditions. The average age of our credit card portfolio affects the stability of delinquency and loss rates of the portfolio. We continue to focus our resources on refining our credit underwriting standards for new accounts and on collections and post charge-off recovery efforts to minimize net losses. At December 31, 2001, 19.1% of securitized accounts and 39.7% of securitized loans were less than 24 months old.

Delinquencies. A credit card account is contractually delinquent if we do not receive the minimum payment by the specified due date on the cardholder's statement. It is our policy to continue to accrue interest and fee income on all credit card accounts, except in limited circumstances, until the account balance and all related interest and other fees are charged off or paid. When an account becomes delinquent, we print a message on the 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 rolling to a more delinquent status. 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 efforts, we engage collection agencies and outside attorneys to continue those efforts.

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

	December 31, 1999	% of Total	December 31, 2000	% of Total	December 31, 2001	% of Total
	(dollars in thousands)					
Receivables outstanding	$ 2,232,375	100%	$ 2,319,703	100%	$ 2,451,006	100%
Loan balances contractually delinquent:						
31 to 60 days	59,840	2.7%	62,040	2.7%	59,657	2.4%
61 to 90 days	35,394	1.6	36,095	1.5	34,370	1.4
91 or more days	60,025	2.7	64,473	2.8	64,175	2.6
Total	$ 155,259	7.0%	$ 162,608	7.0%	$ 158,202	6.4%

Net Charge-Offs. Net charge-offs comprise the principal amount of losses from cardholders unwilling or unable to pay their account balances, as well as bankrupt and deceased cardholders, less current period recoveries. Net charge-offs exclude accrued finance charges and fees. The following table presents our net charge-offs for the periods indicated on a securitized basis. Average credit card

portfolio outstanding represents the average balance of the securitized receivables at the beginning of each month in the year indicated.

	Year ended December 31,		
	1999	2000	2001
	(dollars in thousands)		
Average credit card portfolio outstanding	$ 2,004,827	$ 2,073,574	$ 2,197,935
Net charge-offs	143,370	157,351	184,622
Net charge-offs as a percentage of average loans outstanding (annualized)	7.2%	7.6%	8.4%

We believe, consistent with our statistical models and other credit analyses, that our securitized net charge-off ratio will continue to fluctuate but generally rise.

Age Of Portfolio. The following table sets forth, as of December 31, 2001, the number of total accounts and amount of outstanding loans, based upon the age of the securitized accounts:

Age since origination	Number of accounts	Percentage of accounts	Balances outstanding	Percentage of balances

				outstanding
0-5 Months	3,685	5.6%	$ 365,224	14.9%
6-11 Months	2,956	4.5	212,262	8.7
12-17 Months	3,201	4.9	221,210	9.0
18-23 Months	2,705	4.1	174,407	7.1
24-35 Months	5,455	8.4	318,234	13.0
36+ Months	47,382	72.5	1,159,669	47.3
Total	65,384	100.0%	$ 2,451,006	100.0%

Liquidity and Capital Resources

We have historically generated cash flow from operations, although that amount may vary based on fluctuations in working capital and the timing of merchant settlement activity. In 2001, 2000 and 1999 operating activities generated cash of $169.7 million, $87.2 million and $251.6 million, respectively. Our operating cash flow is seasonal, with cash utilization peaking at the end of December due to increased activity in our Credit Services segment related to the holidays. Operating cash flow in 2001 increased compared to 2000 due to changes in working capital. Working capital was positively effected by changes in merchant settlement activity, trade accounts receivable, accounts payable and accrued expenses.

We use a significant portion of our cash flow from operations for acquisitions and capital expenditures. We acquired the following businesses in 2001 for a total of $89.0 million, net of cash acquired:

Business	Month Acquired	Segment	Consideration
Utilipro, Inc.	February 2001	Transaction Services	Cash for Assets
ConneXt, Inc.	August 2001	Transaction Services	Cash for Assets
MailBox Capital Corp.	September 2001	Transaction Services	Cash for Assets

In addition, the Credit Services segment utilizes a securitization program, discussed below, and certificates of deposit to finance our private label credit card program. Net securitization activity, including the purchase of portfolios and their subsequent securitization, utilized $68.5 million in 2001 compared to generating $27.0 million in 2000. The difference is primarily driven by increased portfolio purchases in 2001 compared to the amount of such purchases in 2000. We were able to reduce certificates of deposit in 2001 by $18.6 million compared to an increase of $22.5 million in 2000.

Liquidity Sources. We have four main sources of liquidity: securitization program, certificates of deposit, credit facility and issuances of equity.

Securitization Program. Since January 1996, we have sold substantially all of the credit card receivables owned by our credit card bank, World Financial Bank, to World Financial Network Credit Card Master Trust, and sometimes through World Financial Network Credit Company, LLC, as part of our securitization program. This securitization program is the primary vehicle through which we finance our private label credit card receivables. The following table shows expected maturities for borrowing commitments of World Financial Network Credit Card Master Trust by year:

	2002	2003	2004	Total
		(amounts in thousands)		
Public notes	$ 600,000	$ 350,000	$ 900,000	$ 1,850,000
Private conduits	589,000	—	—	589,000
Total	$ 1,189,000	$ 350,000	$ 900,000	$ 2,439,000

As public notes approach maturity, the notes will enter a controlled accumulation period, typically six months. During the controlled accumulation period, we will either need to arrange an additional private conduit facility or use our own balance sheet to finance the controlled accumulation, until such time as we can issue a new public series in the public markets. During August 2001, we completed a $900.0 million offering of asset-backed notes to refinance a public series. The new notes have an expected maturity date of August 16, 2004 and a final maturity date of June 16, 2008.

As of December 31, 2001, we had over $2.4 billion of securitized credit card receivables. Securitizations require credit enhancements in the form of cash, spread accounts and additional receivables. The credit enhancement is principally based on the outstanding balances of the private label credit cards in the securitization trust and their related performance. During the period from November to January, we are required to maintain a credit enhancement level of 6% as compared to 4% for the remainder of the year. Accordingly, at December 31, we typically have our highest balance of credit enhancement assets. We intend to utilize our securitization program for the foreseeable future.

If World Financial Bank were not able to regularly securitize the receivables it originates, our ability to grow or even maintain our credit services business would be materially impaired. World Financial Bank's ability to effect securitization transactions is impacted by the following factors, some of which are beyond our control:

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

Once World Financial Bank securitizes receivables, the agreement governing the transaction contains covenants that address the receivables' performance and the continued solvency of the retailer where the underlying sales were generated. In the event one of those or other similar covenants is breached, an early amortization event could be declared, in which case the trustee for the securitization trust would retain World Financial Bank's interest in the related receivables, along with the excess interest income that would normally be paid to World Financial Bank, until such time as the securization investors are fully repaid. The occurrence of an early amortization event would significantly limit, or even negate, our ability to securitize additional receivables.

Certificates of Deposit. We utilize certificates of deposit to finance the operating activities of our credit card bank subsidiary, World Financial Bank, and to fund securitization requirements. World Financial Bank issues certificates of deposit in denominations of $100,000 in various maturities ranging between three months and two years and with effective annual fixed rates ranging from 2.8% to 7.5%. As of December 31, 2001, we had $120.8 million of certificates of deposit outstanding. Certificate of deposit borrowings are subject to regulatory capital requirements.

Credit Facility. At December 31, 2001, we had $87.6 million outstanding under our credit facility, consisting of $87.6 million of term loans and no outstanding borrowings under our $100.0 million revolving loan commitment. The term loans mature in installments through July 2005 and the revolving loan commitment matures in July 2003.

On September 29, 2000 and January 10, 2001, we amended our credit agreement to change the administrative agent and to adjust certain covenants related to consolidated EBITDA, the senior secured leverage ratio, adjusted consolidated net worth and the interest coverage ratio. On March 15, 2002, we further amended our credit agreement to permit us to enter into a short term $50.0 million revolving loan facility, remove a requirement that The Limited maintain ownership of a stated amount of our common stock, and adjust certain other covenants related to leverage ratios, adjusted consolidated net worth, the interest coverage ratio, and prepayment of certain debt owed to The Limited and Welsh, Carson, Anderson & Stowe. We utilize the credit agreement and free cash flow to support our acquisition strategy.

Our credit facility now allows us to borrow up to three times our operating EBITDA. Based on this covenant, our borrowing capacity at December 31, 2001 would have been approximately $508.6 million. With total outstanding borrowings consisting of credit facility, certificates of deposit, and subordinated debt of $310.4 million, we had additional borrowing capacity of $198.2 million. In addition, we had $117.5 million of cash and cash equivalents as of December 31, 2001. We utilize the credit facility and free cash flow to support our acquisition strategy.

Issuance of Equity. On June 13, 2001, we completed our initial public offering, which consisted of the sale of 14,950,000 shares of our common stock at a price to the public of $12.00 per share. After deducting expenses and underwriting discounts and commissions, we received net offering proceeds of approximately $160.8 million. We used proceeds of approximately $90.8 million to repay in full the outstanding balance of a term loan and approximately $500,000 was used to repurchase a then outstanding warrant for 167,084 shares of our common stock. The remaining proceeds were used to pay down additional debt and support our securitization program, acquisitions and other working capital requirements. In addition, simultaneously with the closing of our initial public offering in June 2001, we converted all outstanding shares of our Series A cumulative convertible preferred stock into approximately 11,199,340 shares of common stock.

Contractual Obligations. The following table highlights, as of December 31, 2001, our contractual obligations and commitments to make future payments by type and period:

	Less than 1 year	2-3 years	4-5 years	After 5 years	Total
			(amounts in thousands)		
Certificates of Deposit	$ 107,200	$ 13,600	$ —	$ —	$ 120,800
Credit Facility	4,125	39,500	44,000	—	87,625
Subordinated Debt	—	—	50,000	52,000	102,000
Operating Leases	38,611	49,625	27,054	22,440	137,730
Software Licenses and Other	17,331	39,969	42,924	—	100,224
	$ 167,267	$ 142,694	$ 163,978	$ 74,440	$ 548,379

Economic Fluctuations

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.

Portions of our business are seasonal. Our revenues and earnings are favorably affected by increased transaction volume and credit card balances during the holiday shopping period in the fourth quarter and, to a lesser extent, during the first quarter as credit card balances are paid down. Similarly, our petroleum related businesses are favorably affected by increased volume in the latter part of the second quarter and the first part of the third quarter as consumers make more frequent purchases of gasoline in connection with summer travel.

Regulatory Matters

World Financial Bank is subject to various regulatory capital requirements administered by the Office of the Comptroller of the Currency. Failure to meet minimum capital requirements can trigger certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could have a material adverse effect on our financial statements. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, World Financial Bank must meet specific capital guidelines that involve quantitative measures of its assets, liabilities and certain off-balance-sheet items 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. World Financial Bank is limited in the amounts that it can dividend to us.

Quantitative measures established by regulations to ensure capital adequacy require World Financial 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 six percent, a total capital ratio of at least 10 percent and a leverage ratio of at least five percent and not be subject to a capital directive order. An "adequately capitalized" institution must have a Tier 1 capital ratio of at least four percent, a total capital ratio of at least eight percent and a leverage ratio of at least four percent, but three percent is allowed in some cases. Under these guidelines, World Financial Bank is considered well capitalized. As of December 31, 2001, World Financial Bank's Tier 1 capital ratio was 11.5%, total capital ratio was 11.8% and leverage ratio was 49.3%, and World Financial Bank was not subject to a capital directive order.

Recent Accounting Pronouncements

In September 2000, the Financial Accounting Standards Board issued SFAS No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities", which replaced SFAS No. 125 and revised the standards for accounting for securitizations and other transfers of financial assets and collateral and requires certain disclosures. SFAS No. 140 is effective for transfers and servicing of financial assets and extinguishments of liabilities occurring after March 31, 2001. Disclosures relating to securitization transactions are required for fiscal years ending after December 15, 2000. The adoption of SFAS No. 140 did not have a material impact on our financial position or results of operations.

In June 2001, the FASB issued SFAS No. 141, "Business Combinations" and SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 141 prohibits the use of the pooling-of-interest for business combinations initiated after June 30, 2001 and also applies to all business combinations accounted for by the purchase method that are completed after June 30, 2001. There are also transition provisions that apply to business combinations completed before July 1, 2001, that were accounted for by the purchase method. SFAS No. 142 is effective for fiscal years beginning after December 15, 2001

for all goodwill and other intangible assets recognized in an entity's statement of financial position at that date, regardless of when those assets were initially recognized. The statement changes the accounting for goodwill and other indefinite life intangible assets from an amortization method to an impairment only approach. Upon adoption of the statement, which for us was the beginning of fiscal year 2002, amortization of current goodwill and certain other intangibles determined by management to have an indefinite life will cease, thereby reducing amortization expense for 2002 by approximately $18.0 million before taxes. We currently expect no impairment to goodwill or certain other purchased intangibles.

In August 2001, the FASB issued SFAS No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets." SFAS No. 144 supersedes SFAS No. 121 "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of" and the accounting and reporting provisions of APB Opinion No. 30 "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions" and amends ARB No. 51 "Consolidated Financial Statements." SFAS No. 144 retains many of the requirements of SFAS No. 121 and the basic provisions of Opinion 30; however, it establishes a single accounting model for long-lived assets to be disposed of by sale. SFAS No. 144 furthermore resolves significant implementation issues related to SFAS No. 121. The provisions of SFAS No. 144 are effective for financial statements issued for fiscal years beginning after December 15, 2001 and are to be applied prospectively. We do not anticipate that the adoption of SFAS No. 144 will have a material effect on our financial position or results of operations.

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 off-balance sheet risk, interest rate risk, credit risk, foreign currency exchange rate risk and redemption reward risk.

Off-Balance Sheet Risk. We are subject to off-balance sheet risk in the normal course of business, including commitments to extend credit and through financial instruments used to reduce the interest rate sensitivity of our securitization transactions. We enter into interest rate swap and treasury lock agreements in the management of interest rate exposure. These off-balance sheet financial instruments involve elements of credit and interest rate risk in excess of the amount recognized on our balance sheet. These instruments also result in certain credit, market, legal and operational risks. We have established credit policies for off-balance sheet instruments consistent with those credit policies established for on-balance sheet instruments.

Interest Rate Risk. Interest rate risk affects us directly in our lending and borrowing activities. Our total interest incurred was approximately $156.0 million for 2001, which includes both on and off balance sheet transactions. Of this total, $30.1 million of the interest expense for 2001 was attributable to on-balance sheet indebtedness and the remainder to our securitized credit card receivables, which are financed off-balance sheet. To manage our risk from market interest rates, we actively monitor the interest rates and the interest-sensitive components both on and off-balance sheet 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, we enter into derivative financial instruments such as interest rate swaps and treasury locks to mitigate our interest rate risk on a related financial instrument 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. At December 31, 2001, approximately 6.9% of our outstanding debt was subject to fixed rates with a

weighted average interest rate of 7.6%. An additional 74.8% of our outstanding debt at December 31, 2001 was locked at an effective interest rate of 6.2% through interest rate swap agreements and treasury locks with notional amounts totaling $1.7 billion.

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 pretax income from an instantaneous and sustained increase in interest rates of 1.0%. Assuming we do not take any counteractive measures, a 1.0% increase in interest rates would result in an increase to interest expense of approximately $4.9 million. Conversely, a corresponding decrease in interest rates would result in a comparable decrease to interest expense. 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 accuracy 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. We have developed credit risk models designed to identify qualified consumers who fit our risk parameters. To minimize our risk of loan write-off, we control approval rates of new accounts and related credit limits and follow strict collection practices. We monitor the buying limits as well as set pricing regarding fees and interest rates charged.

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. Although we have entered into cross currency hedges to fix the exchange rate on any Canadian debt repayment due to a U.S. counter party, we do not hedge our net investment exposure in our Canadian subsidiary.

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

- have a supply agreement with Air Canada;
- are seeking new supply agreements with additional airlines in Canada;
- 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; and
- periodically adjust the number of miles required to redeem a reward.

Item 8. Financial Statements and Supplementary Data

Our 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.

Part III

Item 10. Directors and Executive Officers of the Company

The following table sets forth the name, age and positions of each of our directors, executive officers, business unit presidents and other key employees as of March 1, 2002:

Name	Age	Positions
J. Michael Parks	51	Chairman of the Board of Directors, Chief Executive Officer and President
Bruce K. Anderson	61	Director
Roger H. Ballou	50	Director
Daniel P. Finkelman	47	Director
Robert A. Minicucci	49	Director
Anthony J. de Nicola	37	Director
Kenneth R. Jensen	58	Director
Bruce A. Soll	44	Director
Ivan M. Szeftel	48	Executive Vice President and President, Retail Credit Services
John W. Scullion	44	President and Chief Executive Officer of Loyalty Group
Michael A. Beltz	46	Executive Vice President and President, Transaction Services Group
Edward J. Heffernan	39	Executive Vice President and Chief Financial Officer
Dwayne H. Tucker	45	Executive Vice President and Chief Administrative Officer
Steven T. Walensky	44	Executive Vice President and Chief Information Officer
Alan M. Utay	37	Executive Vice President, General Counsel and Secretary
Robert P. Armiak	40	Senior Vice President and Treasurer
Michael D. Kubic	46	Vice President, Corporate Controller and Chief Accounting Officer
Richard E. Schumacher, Jr.	35	Vice President, Tax

J. Michael Parks, chairman of the board of directors, chief executive officer and president, joined us in March 1997. Before joining us, Mr. Parks was president of First Data Resources, the credit card processing and billing division of First Data Corporation, from December 1993 to July 1994. Mr. Parks joined First Data Corporation in July 1976 where he gained increased responsibility for sales, service, operations and profit and loss management during his 18 years of service. Mr. Parks holds a Bachelor's degree from the University of Kansas.

Bruce K. Anderson, has served as a director since our merger in August 1996. Since March 1979, he has been a partner and co-founder of the investment firm, Welsh, Carson, Anderson & Stowe. Prior to that, he spent nine years with ADP where, as executive vice president and a member of the board of directors, he was active in corporate development and general management. Before joining ADP, Mr. Anderson spent four years in computer marketing with IBM and two years in consulting. Mr. Anderson is currently a director of Amdocs Limited. He holds a Bachelor's degree from the University of Minnesota.

Roger H. Ballou, has served as a director since February 2001. Mr. Ballou is the chief executive officer and director of CDI Corporation, a public company engaged in providing temporary services, since October 2001. He was a self-employed consultant from October 2000 to October 2001. Before that time, Mr. Ballou had served as chairman and chief executive officer of Global Vacation Group, Inc. from April 1998 to September 2000. Prior to that, he was a senior advisor for Thayer Capital Partners from September 1997 to April 1998. From April 1995 to August 1997, he served as vice chairman and chief marketing officer, then as president and chief operating officer, of Alamo Rent-a-Car, Inc. Mr. Ballou is currently chairman of the U.S. National Tourism Organization, and served as chairman of the Government Affairs Council from 1995 to 1997. Mr. Ballou is currently a director of American Medical Security Group, Inc. Mr. Ballou holds a Bachelor's degree from the Wharton School of the University of Pennsylvania and an MBA from the Tuck School of Business at Dartmouth.

Daniel P. Finkelman, has served as a director since January 1998. Mr. Finkelman is senior vice president of The Limited, Inc. and is responsible for all brand and business planning for that specialty retailer. He has been employed with The Limited since August 1996. Before joining The Limited, he was self-employed as a consultant from February 1996 to August 1996 and he served as executive vice president of marketing for Cardinal Health, Inc. from May 1994 to February 1996. Prior to that, he was a partner with McKinsey & Company where he was co-leader of the firm's marketing practice, focusing on loyalty and customer relationship management. Mr. Finkelman holds a Bachelor's degree from Grinnell College and graduated as a Baker Scholar at Harvard Business School.

Robert A. Minicucci, has served as a director since our merger in August 1996. Mr. Minicucci is a partner with Welsh, Carson, Anderson and Stowe, joining the firm in August 1993. Before joining Welsh, Carson, Anderson & Stowe, he served as senior vice president and chief financial officer of First Data Corporation from December 1991 to August 1993. Mr. Minicucci is currently a director of Amdocs Limited. Mr. Minicucci holds a Bachelor's degree from Amherst College and an MBA from Harvard Business School.

Anthony J. de Nicola, has served as a director since our merger in August 1996. Mr. de Nicola is a partner with Welsh, Carson, Anderson & Stowe, joining the firm in April 1994. Prior to that, he spent four years with William Blair & Company, financing middle market buy-outs from July 1990 to February 1994. Mr. de Nicola is currently a

director of Centennial Cellular Corp. and NTELOS Inc. He holds a Bachelor's degree from DePauw University and an MBA from Harvard Business School.

Kenneth R. Jensen, became a director in February 2001. Mr. Jensen has been executive vice president, chief financial officer, treasurer, assistant secretary and a director of Fiserv, Inc., a public company engaged in data processing outsourcing, since July 1984. He was named senior executive vice president of Fiserv in 1986. Mr. Jensen holds a Bachelor's degree from Princeton University in

Economics, an MBA from the University of Chicago in Accounting, Economics and Finance and a Ph.D. from the University of Chicago in Accounting, Economics and Finance.

Bruce A. Soll, has served as a director since February 1996. Mr. Soll is senior vice president and counsel of The Limited, where he has been employed since September 1991. Before joining The Limited, he served as the Counselor to the Secretary of Commerce in the Bush Administration from February 1989 to September 1991 where he was a senior policy official, focusing on international trade, telecommunications and technology. Mr. Soll holds a Bachelor's degree from Claremont McKenna College and a J.D. from the University of Southern California Law School.

Ivan M. Szeftel, executive vice president and president of our Retail Credit Services business unit, joined us in May 1998. Before joining us, he served as chief operating officer of Forman Mills, Inc. from November 1996 to April 1998. Prior to that, he served as a director and executive vice president and chief financial officer of Charming Shoppes, Inc. from November 1981 to February 1996. Mr. Szeftel holds Bachelor's and post graduate degrees from the University of Cape Town and is a Certified Public Accountant in the State of Pennsylvania.

John W. Scullion, president and chief executive officer of Loyalty Management Group Canada Inc., joined The Loyalty Group in October 1993. Prior to becoming president, he served as chief financial officer for The Loyalty Group. Prior to that, he served as chief financial officer of The Rider Group from September 1988 to October 1993. Mr. Scullion holds a Bachelor's degree from the University of Toronto.

Michael A. Beltz, executive vice president and president of our Transaction Services Group, joined us in May 1997. From May 1997 to January 2001, he served as executive vice president and then president of business development and planning. He is responsible for transaction services, U.S. based marketing services, new market identification and acquisitions. Before joining us, he served as executive vice president of sales and acquisitions of First Data Corporation from July 1983 to April 1997. Mr. Beltz holds a Bachelor's degree from the University of Nebraska.

Edward J. Heffernan, executive vice president and chief financial officer, joined us in May 1998. Before joining us, he served as vice president, mergers and acquisitions for First Data Corporation from October 1994 to May 1998. Prior to that he served as vice president, mergers and acquisitions for Citicorp from July 1990 to October 1994, and prior to that he served in corporate finance at Credit Suisse First Boston Corporation from June 1986 until July 1990. He holds a Bachelor's degree from Wesleyan University and an MBA from Columbia Business School.

Dwayne H. Tucker, executive vice president and chief administrative officer, joined us in June 1999. He is responsible for human resources, facilities, corporate communications and corporate marketing. Before joining us, he served as vice president of human resources for Northwest Airlines from February 1998 to February 1999 and as senior vice president of human resources for First Data Corporation from March 1990 to February 1998. Mr. Tucker holds a Bachelor's degree from Tennessee State University.

Steven T. Walensky, executive vice president and chief information officer, joined us in July 1998. He is responsible for management of the corporate information services organization. Before joining us, he served as senior vice president of data center services for First Data Corporation from October 1995 to June 1998. Prior to that, he held management positions with Visa International and Sprint. Mr. Walensky holds a Bachelor's degree from Rockhurst College.

Alan M. Utay, executive vice president, general counsel and secretary, joined us in September 2001. He is responsible for legal, internal audit and compliance. Before joining us, he served as a partner at Akin, Gump, Strauss, Hauer & Feld, L.L.P., where he practiced law since October 1990. Mr. Utay holds a Bachelor's degree from the University of Texas and a J.D. from the University of Texas, School of Law.

Robert P. Armiak, senior vice president and treasurer, joined us in February 1996. He is responsible for cash management, hedging strategy, risk management and capital structure. Before joining us, he held several positions, including most recently, treasurer, at FTD Inc. from August 1990 to February 1996. He holds a Bachelor's degree from Michigan State University and an MBA from Wayne State University.

Michael D. Kubic, vice president, corporate controller and chief accounting officer, joined us in October 1999. Before joining us, he served as vice president of finance for Kevco, Inc. from March 1999 to October 1999. Prior to that he served as vice president and corporate controller for BancTec, Inc. from September 1993 to February 1998. Mr. Kubic holds a Bachelor's degree from the University of Massachusetts and is a Certified Public Accountant in the State of Texas.

Richard E. Schumacher, Jr., vice president of tax, joined us in October 1999. He is responsible for corporate tax affairs. Before joining us, he served as tax senior manager for Deloitte & Touche LLP from 1989 to October 1999 where he was responsible for client tax services and practice management and was in the national tax practice serving the banking and financial services industry. Mr. Schumacher holds a Bachelor's degree from Ohio State University and a Master's from Capital University Law and Graduate School and is a Certified Public Accountant in the State of Ohio.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934 requires our directors and executive officers, and persons who beneficially own more than 10% of our common stock, to file reports of ownership and changes in ownership of our common stock with the Securities and Exchange Commission and the New York Stock Exchange. Our directors, executive officers, and greater than 10% beneficial owners are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file.

Based solely on a review of the copies furnished to us and representations from our directors and executive officers, we believe that all Section 16(a) filing requirements for the year ended December 31, 2001 applicable to our directors, executive officers, and greater than 10% beneficial owners were satisfied. Based on written representations from our directors and executive officers, we believe that no Forms 5 for directors, executive officers and greater than 10% beneficial owners were required to be filed with the SEC that have not been filed for the period ended December 31, 2001.

Item 11. Executive Compensation

Summary Compensation Table

The following table sets forth the annual and long-term compensation for the year ended December 31, 2001 for our chief executive officer and our four other most highly compensated executive officers.

		Annual Compensation		Long-Term Compensation		
Name and Principal Position	Year	Salary ($)	Bonus($)(1)	Restricted Stock Awards($)(2)	Securities Underlying Options, SARs(#)	All Other Compensation
J. Michael Parks	2001	$ 498,750	$ 464,063	$ —	109,388	$ 38,233
Chairman of the Board,	2000	$ 475,000	$ 372,000	$ 1,800,000	230,000	$ 35,333
Chief Executive Officer and President	1999	$ 475,000	$ 440,000	$ —	83,333	$ 25,079
Ivan M. Szeftel	2001	$ 348,400	$ 230,450	$ —	38,048	$ 22,927
Executive Vice President and	2000	$ 335,000	$ 179,800	$ 525,000	80,000	$ 21,286
President, Retail Credit Services	1999	$ 325,000	$ 221,500	$ —	22,222	$ 10,070
Michael A. Beltz	2001	$ 280,000	$ 219,780	$ —	38,048	$ 21,412
Executive Vice President and	2000	$ 260,000	$ 198,200	$ 525,000	80,000	$ 18,253
President, Transaction Services Group	1999	$ 250,000	$ 219,500	$ —	22,222	$ 9,201
John W. Scullion(3)	2001	$ 271,400	$ 188,267	$ —	74,715	$ 9,543
President and Chief Executive	2000	$ 255,104	$ 134,006	$ 525,000	80,000	$ 8,865
Officer, The Loyalty Group	1999	$ 242,956	$ 68,413	$ —	—	$ 8,012
Edward J. Heffernan	2001	$ 234,000	$ 154,219	$ —	38,048	$ 9,729
Executive Vice President	2000	$ 225,000	$ 70,275	$ 525,000	80,557	$ 8,465
and Chief Financial Officer	1999	$ 168,000	$ 81,007	$ —	2,777	$ 4,976

(1) Bonuses represent amounts earned by each executive officer during the referenced year, although paid in the following year. Bonuses are determined based upon the achievement of operating income, various financial and operational objectives and individual objectives.

(2) Amounts in this column represent the value of the following performance based restricted stock awards issued in September 2000 at $15.00 per share: 120,000 shares to Mr. Parks, and 35,000 shares to each of Messrs. Szeftel, Beltz, Scullion, and Heffernan. Using the closing price of our stock as of December 31, 2001, $19.15, the value of those awards still restricted is $1,838,400 for Mr. Parks and $536,200 for each of Messrs. Szeftel, Scullion, Beltz and Heffernan. These awards will not vest unless specific performance measures tied to either EBITDA or return on stockholders' equity are met. If these performance measures are met, some of these restricted shares will vest at the end of a five year period, but some can vest on a more accelerated basis if certain annual EBITDA performance targets are met. Twenty percent of each participant's award vested on February 6, 2001. On February 6, 2002, an additional twenty percent of each participant's award vested based on our EBITDA in 2001 and approval from our board of directors.

(3) Mr. Scullion's salary, bonus and all other compensation are paid in Canadian dollars. Amounts reflected are converted to U.S. dollars at an average conversion rate for the year of $0.63.

All other compensation amounts include our matching contributions to the 401(k) and Retirement Savings Plan, the Supplemental Executive Retirement Plan, the life insurance premiums we pay on behalf of each executive officer and long-term disability expenses as follows:

		401(k) Plan	Life Insurance Premiums	SERP	Long-Term Disability
J. Michael Parks	2001	$ 13,685	$ 172	$ 24,375	$ —
	2000	13,430	172	21,730	—
	1999	10,613	216	14,250	—
Ivan M. Szeftel	2001	$ 11,985	$ 154	$ 10,788	$ —
	2000	11,730	149	9,406	—
	1999	9,883	187	—	—
Michael A. Beltz	2001	$ 11,985	$ 120	$ 9,307	$ —
	2000	11,730	115	6,408	—
	1999	9,057	144	—	—
John W. Scullion	2001	$ —	$ 3,944	$ —	$ 5,599
	2000	—	3,284	—	5,581
	1999	—	2,826	—	5,186
Edward J. Heffernan	2001	$ 8,585	$ 104	$ 1,040	$ —
	2000	8,388	77	—	—
	1999	4,884	92	—	—

Option Grants in Last Fiscal Year

The following table sets forth certain information concerning option grants made to the named executive officers during 2001 pursuant to our stock option plan. No SARs were granted during 2001.

	Individual Grants				Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Option Term($)(2)	
	Number of Securities Underlying Options Granted(#)	Percentage of Total Options Granted to Employees in Fiscal Year(1)	Exercise Price ($/Sh)	Expiration Date	5%	10%
J. Michael Parks	109,388	3.85%	$ 12.00	6/7/11	$ 825,522	$ 2,092,036
Ivan M. Szeftel	38,048	1.34%	$ 12.00	6/7/11	$ 287,138	$ 727,665
Michael A. Beltz	38,048	1.34%	$ 12.00	6/7/11	$ 287,138	$ 727,665
John W. Scullion	74,715	2.63%	$ 12.00	6/7/11	$ 563,854	$ 1,428,918
Edward J. Heffernan	38,048	1.34%	$ 12.00	6/7/11	$ 287,138	$ 727,665

(1) In 2001, we granted options to purchase a total of 2,844,372 shares of common stock at exercise prices ranging from $11.80 to $17.22 per share.

(2) In accordance with SEC rules, the amounts shown on this table represent hypothetical gains that could be achieved for the respective options if exercised at the end of the option term. These gains are based on the assumed rates of stock appreciation of 5% and 10% compounded annually from the date the respective options were granted to their expiration date and do not reflect our estimates or projections of the future price to their expiration date and do not reflect our estimates or projections of the future price of our common stock. The gains shown are net of the option exercise price, but do not include deductions for taxes or other expenses associated with the exercise. Actual gains, if any, on stock option exercises will depend on the future performance of our common stock, the option holder's continued employment through the option period, and the date on which the options are exercised.

Option Exercises in Last Fiscal Year

The following table sets forth certain information concerning the exercise of stock options during the last completed year and all unexercised options held by the named executive officers as of December 31, 2001.

Name	Shares Acquired on Exercise(#)	Value Realized(#)	Number of Unexercised Options at Fiscal Year-End(#)		Value of Unexercised In-The-Money Options at Fiscal Year-End($)(1)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
J. Michael Parks	—	$ —	487,360	268,692	$ 4,344,419	$ 1,546,347
Ivan M. Szeftel	—	$ —	133,793	117,588	$ 1,149,954	$ 787,420
Michael A. Beltz	5,000	$ 38,675	139,903	113,142	$ 765,200	$ 668,383
John W. Scullion	—	$ —	114,071	123,977	$ 866,860	$ 770,183
Edward J. Heffernan	—	$ —	53,512	84,801	$ 342,472	$ 460,625

(1) Value for "in-the-money" options represents the positive spread between the respective exercise prices of outstanding options and the closing price of the shares of common stock on the New York Stock Exchange of $19.15 per common share on December 31, 2001.

Employment, Severance and Indemnification Agreements

We generally do not to enter into employment agreements with our employees. However, as part of some of our acquisitions, we have entered into agreements with selected key individuals to ensure the success of the integration of the acquisition and long-term business strategies. In addition, we have entered into employment agreements with Mr. Parks and Mr. Szeftel.

J. Michael Parks. Mr. Parks entered into an employment agreement effective March 10, 1997 to serve as our chairman of the board and chief executive officer. The agreement provides that Mr. Parks will receive a minimum annual base salary of $475,000. Mr. Parks is entitled to an annual incentive bonus of $400,000 based on the achievement of our annual financial goals. Under the agreement, Mr. Parks was granted options to purchase 333,332 shares of our common stock at an exercise price of $9.00 per share, all of which have vested. Additionally, Mr. Parks is entitled to participate in our 401(k) and Retirement Savings Plan, our Incentive Compensation Plan and any other employee benefits as provided to other senior executives. Mr. Parks is entitled to 18 months base salary if terminated.

Ivan M. Szeftel. Mr. Szeftel entered into an employment agreement dated May 4, 1998 to serve as the president of our retail services division. The agreement provides that Mr. Szeftel is entitled to receive a minimum annual base salary of $325,000, subject to increases based on annual reviews. Mr. Szeftel is entitled to an annual incentive bonus of $200,000 based on the achievement of our annual financial goals. Under the agreement, we granted Mr. Szeftel options to purchase 111,111 shares of our common stock at an exercise price of $9.00 per share. Of these options, options to purchase 83,334 shares have vested. Mr. Szeftel is entitled to participate in our 401(k) and Retirement Savings Plan, our Incentive Compensation Plan and any other employee benefits as provided to other senior executives. Under the agreement, Mr. Szeftel is entitled to severance payments if we terminate his employment without cause or if Mr. Szeftel terminates his employment for good reason. In such cases, Mr. Szeftel will be entitled to 12 months base salary.

Amended and Restated Stock Option and Restricted Stock Plan

We adopted the Amended and Restated Alliance Data Systems Corporation and its Subsidiaries Stock Option and Restricted Stock Plan in April 2001. This plan provides for grants of incentive stock options, nonqualified stock options and restricted stock awards to selected employees, officers, directors

and other persons performing services for us or any of our subsidiaries. We have reserved a total of 8,753,000 shares of common stock for issuance pursuant to this plan. As of December 31, 2001, there were 6,519,000 shares of common stock subject to outstanding options at a weighted average exercise price of $12.34 per share. Under the plan, we may grant incentive stock options to any person employed by us or any of our subsidiaries. We may grant nonqualified stock options and restricted stock awards to any of our stockholders, any employees of our stockholders that perform services for us and any person employed by, or performing services for, us or any of our subsidiaries, including our directors and officers. Our non-employee directors currently participate in our stock option plan. The exercise price for incentive stock options granted under the plan may not be less than 100% of the fair market value of the common stock on the option grant date. If an incentive stock option is granted to an employee who owns more than 10% of our common stock, the exercise price of that option may not be less than 110% of the fair market value of the common stock on the option grant date. The exercise price for nonqualified stock options granted under the plan may be equal to, more than or less than 100% of the fair market value of the common stock on the option grant date. The options granted under both the current plan and our prior plan terminate on the tenth anniversary of the date of grant.

The plan also provides for the granting of performance-based restricted stock awards to our chief executive officer, officers that report directly to him and certain other officers. The plan gives our compensation committee administering the plan, in addition to our board, the discretion to determine the vesting provisions for performance-based restricted stock awards. As of December 31, 2001 performance-based restricted awards representing an aggregate of 571,600 shares had been granted to 36 officers. The restricted shares subject to these grants will not vest unless specified performance measures tied to either EBITDA or return on stockholders' equity are met. If these performance targets are met, some of these restricted shares will vest over a five year period. However, some of the restricted shares will vest on a more accelerated basis if certain annual EBITDA performance targets are met. Our board of directors accelerated vesting for the year 2001 for 114,000 shares since the relevant performance goals were met. For the year 2000, our board of directors waived the performance goal requirement, accepted the 2000 EBITDA results and accelerated vesting for 114,000 shares because of strong contributions from management.

We implemented a program whereby we make loans available to recipients of restricted stock awards in amounts sufficient to cover any tax liability resulting from the vesting of those awards. The amount that any participant can borrow under the program is limited to 50% of the value of the vested shares. Participants in the program are required to pledge their vested restricted shares to us as collateral, until the loans are repaid. The plan provides that our board of directors will administer the plan. Our board of directors may delegate all or a portion of its authority under the plan to the compensation committee. The board of directors or the compensation committee may further delegate all or a portion of its authority under the plan to our chief executive officer, except with respect to grants of options or awards to officers and directors who are subject to Section 16(b) of the Securities

Exchange Act of 1934. The plan gives our board of directors discretion to determine the vesting provisions of each individual stock option. In the event of a change of control, our plan provides that our board of directors may provide for accelerated vesting of options. Options granted on or after September 1, 2000 vest over a three year period from the date of grant. The normal vesting provision for options granted under our prior plan provides for vesting of $33^{1}/3\%$ of the options each year over a three-year period, beginning on the first day of February of the eighth year after the options have been awarded. However, if we meet the annual operating income goal as determined by our board of directors, vesting for these options granted under our prior plan can be accelerated. Our board of directors designates a percentage of these options that will vest in this accelerated manner if we meet the annual operating income goal. Historically, this designated percentage has been equal to 25% of the options granted. During the third quarter of 2001 we registered 8,753,000 shares of our common stock for issuance pursuant to our stock option and restricted stock plan pursuant to a Registration Statement on Form S-8, File No. 333-68134.

Alliance Data Systems 401(k) and 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. Contributions made by employees or by us to the plan, and income earned on these contributions, are not taxable to employees until withdrawn from the plan. The plan covers U.S. employees of ADS Alliance Data Systems, Inc., our wholly owned subsidiary, and any other subsidiary or affiliated organization that adopts this plan. We and all of our U.S. subsidiaries are currently covered under the plan. All employees who are at least 21 years old and who we have employed for at least 30 days are eligible to participate.

Under this plan, we make regular matching contributions on the first 3% of each participant's contributions. An additional matching contribution on the second 3% of each participant's contributions may be made annually at the discretion of our board of directors. Each of our matching contributions vests 20% over five years for employees with less than five years of service. All contributions vest immediately if the participating employee retires at age 65, becomes disabled, dies or is terminated without cause. In addition to matching contributions, we make a non-discretionary retirement contribution based on the participant's age and years of service with us. All of our contributions are invested as directed by the participant. The retirement contributions become 100% vested once the participant has served five years with us. In the third quarter of 2001, we registered 1,500,000 shares of our common stock for issuance in accordance with the our 401(k) and Retirement Savings Plan pursuant to a Registration Statement on Form S-8, File No. 333-65556.

Supplemental Executive Retirement Plan

We adopted the ADS Alliance Data Systems, Inc. Supplemental Executive Retirement Plan in May 1999 to help certain key individuals maximize their pre-tax savings and company contributions that are otherwise restricted due to tax limitations. Eligibility under the plan requires an individual to: (1) be a regular, full-time U.S. employee of ADS Alliance Data Systems, (2) receive compensation equal to or greater than the IRS compensation limit as of December 31 of the previous calendar year and (3) be a participant in the Alliance Data Systems 401(k) and Retirement Savings Plan. This plan allows the participant to contribute:

- up to 16% of eligible compensation on a pre-tax basis;
- any 401(k) contributions that would otherwise be returned because of reaching the statutory limit; and
- any retirement savings plan contributions for compensation in excess of the statutory limits.

The participant is 100% vested in his or her own contributions. A participant becomes 100% vested in the retirement savings plan contributions after five continuous years of service. The contributions accrue interest at a rate of 8% a year, which may be adjusted periodically by the 401(k) and Retirement Savings Plan Investment Committee. The participant does not have access to any of the contributions or interest while actively employed with us, unless the participant experiences an unforeseeable financial emergency. Loans are not available under this plan. If the participant ceases to be actively employed, retires or becomes disabled, the participant will receive the value of his or her account within 60 days of the end of the quarter in which he or she became eligible for the distribution. A distribution from the plan is taxed as ordinary income and is not eligible for any special tax treatment.

2001 Incentive Compensation Plan

The Alliance Data Systems 2001 Incentive Compensation Plan provides an opportunity for certain U.S. employees to be eligible for a cash bonus based on achieving certain performance targets. To be

eligible under the plan, employees must meet certain eligibility requirements outlined in the plan document.

Under the plan, each participant has an incentive compensation target that is expressed as a percentage of his or her annualized base salary as of October 1, 2001. The participant's incentive compensation target is based on various objectives that are weighted to reflect the participant's contribution to company, business unit and individual goals, which are established at the beginning of the plan year. The company objective is based on our operating income, the business unit objective is based on financial and operational objectives, as well as associate satisfaction scores, and the individual objectives are items of importance to us that the individual can impact. Our executive committee members and chairman have their incentive compensation target tied to our operating income, revenue, either at the company level or at the business unit level, and associate satisfaction. The amount of compensation a participant receives depends on the percentage of objectives that were achieved. For all objectives except associate satisfaction, 80% of the objectives must be achieved before a participant is eligible for any payout and the maximum payout is equal to 150% of the participant's incentive compensation target. For associate satisfaction, 90% of the target must be achieved before a participant is eligible for any payout, plus there must be improvement from the 2000 base score before a participant is eligible for any payout.

Employee Stock Purchase Plan

We adopted the Alliance Data Systems Corporation and its Subsidiaries Employee Stock Purchase Plan in February 2001. We intend for the plan to qualify under section 423 of the Internal Revenue Code. The plan permits our eligible employees and those of our designated subsidiaries to purchase our common stock at a discount to the market price through payroll deductions. No employee may purchase more than $25,000 in stock under the plan in any calendar year, and no employee may purchase stock under the plan if such purchase would cause the employee to own more than 5% of the voting power or value of our common stock.

The plan provides for three month offering periods, beginning on each January 1, April 1, July 1 and October 1. The first offering period began October 1, 2001. The plan allows the board of directors to change this date as well as the date, duration and frequency of any future offering period. The plan has a term of ten years, unless terminated sooner by our board of directors pursuant to the provisions of the plan. On the offering date at the beginning of each offering period, each eligible employee is granted an option to purchase a number of shares of common stock, which option is exercised automatically on the purchase date at the end of the offering period. The purchase price of the common stock upon exercise of the options will be 85% of its fair market value on the offering date or purchase date, whichever is lower. During the third quarter of 2001 we registered 1,500,000 shares of our common stock for issuance in accordance with the Employee Stock Purchase Plan pursuant to a Registration Statement on Form S-8, File No. 333-68134. Pursuant to the terms of the Employee Stock Purchase Plan, the first purchases were completed December 31, 2001.

Item 12. Security Ownership of Certain Beneficial Owners and Management

In the table below we have listed information which sets out certain beneficial ownership of our common stock as of March 1, 2002 by: (1) each director; (2) each of the executive officers included in the Summary Compensation Table set out in the previous section entitled Executive Compensation; (3) all of our directors and executive officers as a group; and (4) each person known to be the beneficial owner of more than 5% of the outstanding shares of our common stock. Except as we have noted, the beneficial owner named below has sole voting and investment power with respect to his or her listed shares.

Name of Beneficial Owner	Shares Beneficially Owned(1)	Percent of Shares Beneficially Owned(1)
J. Michael Parks(2)	560,693	*
Ivan M. Szeftel(3)	169,177	*
Michael A. Beltz(4)	183,856	*
John W. Scullion(5)	148,904	*
Edward J. Heffernan(6)	75,103	*
Bruce K. Anderson(7)	368,176	*
Anthony J. de Nicola(7)	35,336	*
Robert A. Minicucci(7)	121,488	*
Roger H. Ballou	1,500	*
Daniel P. Finkelman	2,500	*
Kenneth R. Jensen	10,000	*
Bruce A. Soll	8,000	*
All directors and executive officers as a group (16 individuals)(8)	1,889,506	2.5%
Welsh, Carson, Anderson & Stowe(9) 320 Park Avenue, Suite 2500 New York, New York 10022-6815	43,698,074	58.8%
Limited Commerce Corp. Three Limited Parkway Columbus, Ohio 43230	14,663,376	19.7%

* Less than 1%

(1) Beneficial ownership is determined in accordance with the SEC's rules. In computing percentage ownership of each person, shares of common stock subject to options held by that person that are currently exercisable, or exercisable within 60 days of March 1, 2002, are deemed to be beneficially owned. These shares, however, are not deemed outstanding for the purpose of computing the percentage ownership of each other person.

(2) Includes options to purchase 508,193 shares of common stock which are exercisable within 60 days of March 1, 2002.

(3) Includes options to purchase 154,177 shares of common stock which are exercisable within 60 days of March 1, 2002.

(4) Includes options to purchase 150,745 shares of common stock which are exercisable within 60 days of March 1, 2002.

(5) Includes options to purchase 134,904 shares of common stock which are exercisable within 60 days of March 1, 2002.

(6) Includes options to purchase 58,103 shares of common stock which are exercisable within 60 days of March 1, 2002.

(7) Each of Messrs. Anderson, de Nicola and Minicucci are partners of Welsh, Carson, Anderson & Stowe and certain of its affiliates and may be deemed to be the beneficial owner of the common stock beneficially owned by Welsh Carson and described in note 9 below.

(8) Includes options to purchase an aggregate of 1,169,495 shares of common stock which are exercisable within 60 days of March 1, 2002 held by Messrs. Parks, Szeftel, Beltz, Heffernan, Kubic, Scullion, Tucker, and Walensky.

(9) Includes:

- 5,555,550 shares of common stock held by Welsh, Carson, Anderson & Stowe VI, L.P.,
- 17,922,447 shares of common stock held by Welsh, Carson, Anderson & Stowe VII, L.P.,
- 17,790,349 shares of common stock held by Welsh, Carson, Anderson & Stowe VIII, L.P.,
- 148,766 shares of common stock held by WCAS Information Partners LP,
- 268,398 shares of common stock held by WCAS Capital Partners II LP,
- 655,555 shares of common stock held by WCAS Capital Partners III LP,
- 304,305 shares of common stock held by Patrick J. Welsh,
- 11,111 shares of common stock held by Carol Ann Welsh FBO Eric Welsh U/A dtd 11/26/84,
- 11,111 shares of common stock held by Carol Ann Welsh FBO Randall Welsh U/A dtd 11/26/84,
- 11,111 shares of common stock held by Carol Ann Welsh FBO Jennifer Welsh U/A dtd 11/26/84,

- 300,561 shares of common stock held by Russell L. Carson,
- 368,176 shares of common stock held by Bruce K. Anderson,
- 75,525 shares of common stock held by Thomas E. McInerney,
- 75,525 shares of common stock held by McInerney/Gabrielle Family Limited Partnership,
- 121,488 shares of common stock held by Robert A. Minicucci,
- 35,336 shares of common stock held by Anthony J. de Nicola,
- 21,630 shares of common stock held by Paul B. Queally,
- 15,412 shares of common stock held by Lawrence Sorrel,
- 3,852 shares of common stock held by D. Scott Mackesy, and
- 1,866 shares of common stock held by Jonathan Rather.

The individual general partners or managing members of the sole general partners of the above listed Welsh Carson, Anderson & Stowe limited partnerships include some or all of Partick J. Welsh, Russell L. Carson, Thomas E. McInerney, Paul B. Queally, Lawrence B. Sorrel, Jonathan M. Rather, John D. Clark, James R. Matthews, Sanjay Swani and D. Scott Mackesy. Bruce K. Anderson and Thomas E. McInerney are the general partners of the general partnership that is the sole general partner of WCAS Information Partners, L.P. Each of the persons listed in this note may be deemed to be the beneficial owner of the common stock owned by the limited partnerships of whose general partner he or she is a general partner.

Item 13. Certain Relationships and Related Transactions

Transactions With Welsh, Carson, Anderson & Stowe

Welsh, Carson, Anderson & Stowe VI, L.P., Welsh, Carson, Anderson & Stowe VII, L.P., Welsh, Carson, Anderson & Stowe VIII, L.P., WCAS Capital Partners II, L.P., WCAS Capital Partners III, L.P., WCAS Information Partners, L.P., WCA Management Corporation and various individuals who are limited partners of the Welsh Carson limited partnerships beneficially own approximately 58.8% of our outstanding common stock. The individual partners of the Welsh Carson limited partnerships include Bruce K. Anderson, Anthony J. de Nicola and Robert A. Minicucci, each of whom is a member of our board of directors.

In July 1999, we sold 120,000 shares of Series A preferred stock to Welsh, Carson, Anderson & Stowe VIII, L.P., WCAS Information Partners, L.P. and 20 individuals who are partners of some or all of the Welsh Carson limited partnerships for an aggregate purchase price of $120.0 million. The preferred shares were issued to finance, in part, the acquisition of the network services business of SPS Payment Systems, Inc. Upon consummation of our initial public offering in June, 2001, all of the outstanding shares of Series A preferred stock was converted into shares of common stock.

In July 1998, we sold 10,101,010 shares of common stock to Welsh, Carson, Anderson & Stowe VIII, L.P., Welsh, Carson, Anderson & Stowe VII, L.P., WCAS Information Partners, L.P., and 16 individuals who are partners of some or all of the Welsh Carson limited partnerships for an aggregate purchase price of $100.0 million. The shares were issued to finance, in part, the acquisition of all outstanding stock of Loyalty.

In August 1998, we sold 30,303 shares of common stock to WCAS Capital Partners II, L.P. for $9.90 per share as consideration for WCAS Capital Partners II, L.P. extending the maturity of a 10% subordinated note we issued to it in January 1996 in the principal amount of $30.0 million and originally due January 24, 2002. Principal on the note is due on October 25, 2005 and interest is payable semi-annually in arrears on each January 1 and July 1. The note was originally issued to finance, in part, the acquisition of BSI Business Services, Inc., now known as ADS Alliance Data Systems, Inc., one of our wholly owned subsidiaries.

In September 1998, we issued 655,555 shares of common stock to WCAS Capital Partners III, L.P. and issued a 10% subordinated note to WCAS Capital Partners III, L.P. in the principal amount of $52.0 million to finance, in part, the acquisition of Harmonic Systems Incorporated, whose operations have been integrated into ADS Alliance Data Systems. Principal on the note is due in two equal installments on September 15, 2007 and September 15, 2008. Interest is payable semi-annually in arrears on each March 15 and September 15.

We paid Welsh, Carson, Anderson & Stowe $1.2 million in 1999 for investment banking services rendered in connection with our acquisitions.

Transactions With The Limited

Limited Commerce Corp. beneficially owns approximately 20% of our common stock. Limited Commerce Corp. is indirectly owned by The Limited, Inc. Therefore, The Limited, Inc., a significant customer of ours, indirectly owns one of our principal stockholders. Pursuant to a stockholders agreement with Welsh Carson and Limited Commerce Corp., Limited Commerce Corp. has the right to designate two members of our board of directors. Mr. Finkelman and Mr. Soll are the current Limited Commerce Corp. designees on our board of directors.

The Limited, Inc. operates through a variety of retail and catalog affiliates that operate under different names, including Bath & Body Works, The Limited Stores, Henri Bendel, Victoria's Secret Catalogue, Victoria's Secret Stores, Lerner New York, Express and Structure. Many of these affiliates

have entered into credit card processing agreements with World Financial Bank. These affiliates of The Limited represented approximately 43.8% of our credit card receivables as of December 31, 2001.

Pursuant to these credit card processing agreements, World Financial Bank provides credit card processing services and issues private label credit cards on behalf of the businesses. World Financial Bank is obligated to issue credit cards to any customer of a Limited affiliate who applies for a credit card, meets World Financial Bank's credit standards, and agrees to the terms and conditions of World Financial Bank's standard form of credit card agreement. World Financial Bank is allowed to change its applicable credit standards and standard form of credit card agreement with the consent of the relevant Limited affiliate. Furthermore, these agreements obligate World Financial Bank to consider, in good faith, requests by a Limited affiliate for variances from World Financial Bank's credit standards and standard form of credit agreement. Under these agreements, World Financial Bank pays the business an amount equal to the amount charged by the business's customers using the private label credit card issued by World Financial Bank, less a discount, which varies

among agreements. World Financial Bank assumes the credit risk for these credit card transactions. Payments are also made to World Financial Bank for special programs and reimbursement of certain costs.

Most of these credit card processing agreements were entered into in 1996 and expire in 2006. These agreements give the businesses various termination rights, including the ability to terminate these contracts under certain circumstances after the first six years if World Financial Bank is unable to remain competitive with independent third parties that provide similar services.

In general, World Financial Bank owns information relating to the holders of credit cards issued under these agreements, but World Financial Bank is prohibited from disclosing information about these holders to any third party that The Limited determines competes with The Limited or its affiliated businesses.

We periodically engage in projects for various retail affiliates of The Limited to provide database marketing programs that are generally short-term in nature.

In September 2000, our subsidiary, ADS Alliance Data Systems, Inc., entered into a marketing database services agreement with The Limited, Inc. and one of its affiliates, Intimate Brands, Inc., which wholly owns Victoria's Secret and Bath & Body Works. In this agreement, ADS agreed to provide an information database system capable of capturing certain consumer information when a consumer makes a purchase, excluding purchases for credit or financial products, at Bath & Body Works, The Limited Stores, Express, Structure, Victoria's Secret Stores, Lerner New York and Lane Bryant, and to provide database marketing services. Under the agreement, ADS has the right to sell data provided to ADS by affiliates of The Limited under the agreement, subject to the privacy policies of The Limited and Intimate Brands and their consent. However, ADS is prohibited from disclosing or selling any of this information to third parties who, in the sole judgment of The Limited and Intimate Brands, compete with affiliates or subsidiaries of The Limited. ADS is required to share revenues generated by the sale of such data with The Limited and Intimate Brands. This agreement expires in 2003, but can be terminated earlier by The Limited and Intimate Brands if we fail to meet specified service standards.

We received total revenues directly from The Limited and its retail affiliates of $46.6 million during 1999, $46.7 million during 2000 and $44.9 million in 2001.

In August 1998, we sold 20,202 shares of common stock to Limited Commerce Corp. for $9.90 per share as consideration for Limited Commerce Corp. extending the maturity of a 10% subordinated note we issued in January 1996 to WCAS Capital Partners II, L.P., which sold the note to Limited Commerce Corp. The note is in the principal amount of $20.0 million and was originally due January 24, 2002. Principal on the note is due on October 25, 2005 and interest is payable

semi-annually in arrears on each January 1 and July 1. The note was originally issued to finance, in part, the acquisition of BSI Business Services, Inc., now known as ADS Alliance Data Systems, Inc.

Stockholders Agreement With Welsh Carson and The Limited

Under a stockholders agreement, entered in June 2001 in connection with our initial public offering, the Welsh Carson affiliates and Limited Commerce Corp. each have two demand registration rights, as well as "piggyback" registration rights. The demand rights enable the Welsh Carson affiliates and Limited Commerce Corp. to require us to register their shares with the SEC at any time. Piggyback rights allow the Welsh Carson affiliates and Limited Commerce Corp. to register the shares of our common stock that they purchased along with any shares that we register with the SEC. These registration rights are subject to customary conditions and limitations, including the right of the underwriters of an offering to limit the number of shares.

Under the stockholders agreement, the size of our board of directors is set at nine. Welsh Carson has the right to designate up to three nominees for election to the board of directors as long as it owns more than 20% of our common stock. Limited Commerce Corp. has the right to designate up to two of the members as long as it owns more than 10% of our common stock and one of the members as long as it owns between 5% and 10% of our common stock.

U.S. Loyalty Program

During 2000, we evaluated the creation of a loyalty program in the United States similar to our AIR MILES Reward Program in Canada. Because of the significant funding requirements to establish such a program, we decided not to pursue the program. Instead, stockholders independently funded the program through a separate company called U.S. Loyalty Corp. We have no rights to share in any profits earned by U.S. Loyalty Corp.

Although we never had an ownership interest in U.S. Loyalty Corp., during 2001 we provided various services to U.S. Loyalty Corp., including management support, accounting, and marketing services. During 2001, we collected fees of $1.9 million from U.S. Loyalty Corp. for such services.

Robert A. Minicucci, who is a stockholder and one of our directors, is the sole director and officer of U.S. Loyalty Corp.

PART IV

Item 14. Exhibits, Financial Statement Schedules, and Reports on Form 8-K.

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

(1) Financial Statements

(2) Financial Statement Schedules

(3) The following exhibits are filed as part of this Annual Report 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	Second Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit No. 3.2 to our Registration Statement on Form S-1 filed with the SEC on March 3, 2000, File No. 333-94623).

3.3	First Amendment to the Second Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit No. 3.3 to our Registration Statement on Form S-1 filed with the SEC on May 4, 2001, File No. 333-94623).
*3.4	Second Amendment to the Second Amended and Restated Bylaws of the Registrant.
4	Specimen Certificate for shares of Common Stock of the Registrant (incorporated by reference to Exhibit No. 4 to our Registration Statement on Form S-1 filed with the SEC on March 3, 2000, File No. 333-94623).
10.1	Credit Card Processing Agreement between World Financial Network National Bank, Bath and Body Works, Inc. and Tri-State Factoring, Inc., dated January 31, 1996 (incorporated by reference to Exhibit No. 10.1 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.2	Credit Card Processing Agreement between World Financial Network National Bank, Victoria's Secret Catalogue, Inc., and Far West Factoring Inc., dated January 31, 1996 (assigned by Victoria's Secret Catalogue, Inc. to Victoria's Secret Catalogue, LLC, May 2, 1998) (incorporated by reference to Exhibit No. 10.2 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.3	Credit Card Processing Agreement between World Financial Network National Bank, Victoria's Secret Stores, Inc., and Lone Mountain Factoring, Inc., dated January 31, 1996 (incorporated by reference to Exhibit No. 10.3 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.4	Credit Card Processing Agreement between World Financial Network National Bank, Lerner New York, Inc. and Nevada Receivable Factoring, Inc., dated January 31, 1996 (incorporated by reference to Exhibit No. 10.4 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).

10.5	Credit Card Processing Agreement between World Financial Network National Bank, Express, Inc., and Retail Factoring, Inc., dated January 31, 1996 (incorporated by reference to Exhibit No. 10.5 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.6	Credit Card Processing Agreement between World Financial Network National Bank, The Limited Stores, Inc. and American Receivable Factoring, Inc., dated January 31, 1996 (incorporated by reference to Exhibit No. 10.6 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.7	Credit Card Processing Agreement between World Financial Network National Bank, Structure, Inc. and Mountain Factoring, Inc., dated January 31, 1996 (incorporated by reference to Exhibit No. 10.7 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.8	Credit Card Processing Agreement between World Financial Network National Bank, Henri Bendel, Inc. and Western Factoring, Inc., dated January 31, 1996 and amended May 13, 1998 (incorporated by reference to Exhibit No. 10.9 to our Registration Statement on Form S-1 filed with the SEC on February 16, 2001, File No. 333-94623).
10.9	Indenture of Sublease between J.C. Penney Company, Inc. and BSI Business Services, Inc., dated January 11, 1996 (incorporated by reference to Exhibit No. 10.12 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
*10.10	Build-to-Suit Net Lease between Opus South Corporation and ADS Alliance Data Systems, Inc., dated January 29, 1998, as amended.
10.11	Lease between YCC Limited and London Life Insurance Company and Loyalty Management Group Canada Inc. dated May 28, 1997 and amended June 19, 1997 and January 15, 1998 (incorporated by reference to Exhibit No. 10.15 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.12	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).
10.13	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).
*10.14	Stockholders Agreement dated as of June 12, 2001, among Alliance Data Systems Corporation, Limited Commerce Corp., Welsh, Carson, Anderson, and Stowe VI, L.P., Welsh, Carson, Anderson & Stowe VII, L.P., Welsh, Carson, Anderson & Stowe VIII, L.P., WCAS Information Partners, L.P., WCAS Capital Partners II, L.P., and WCAS Capital Partners III, L.P.

10.15	10% Subordinated Note due September 15, 2008 issued by Alliance Data Systems Corporation to WCAS Capital Partners III, L.P. dated September 15, 1998 (incorporated by reference to Exhibit No. 10.28 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.16	10% Subordinated Note due October 25, 2005 issued by Alliance Data Systems Corporation to the Limited Commerce Corp. dated January 24, 1996 (incorporated by reference to Exhibit No. 10.29 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.17	10% Subordinated Note due October 25, 2005 issued by Alliance Data Systems Corporation to WCAS Capital Partners II, L.P. dated January 24, 1996 (incorporated by reference to Exhibit No. 10.30 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.18	ADS Alliance Data Systems, Inc. Supplemental Executive Retirement Plan, effective May 1, 1999 (incorporated by reference to Exhibit No. 10.33 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.19	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).

10.20	Form of Alliance Data Systems Corporation Incentive Stock Option Agreement (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).
10.21	Form of Alliance Data Systems Corporation Non-Qualified Stock Option Agreement (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).
10.22	Alliance Data Systems Corporation and its Subsidiaries Employee Stock Purchase Plan (incorporated by reference to Exhibit No. 10.10 to our Registration Statement on Form S-1 filed with the SEC on February 7, 2001, File No. 333-94623).
*10.23	Alliance Data Systems Corporation 2001 Incentive Compensation Plan.
10.24	Form of Alliance Data Systems Corporation Confidentiality and Non-Solicitation Agreement (incorporated by reference to Exhibit No. 10.37 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.25	Letter employment agreement with J. Michael Parks, dated February 19, 1997 (incorporated by reference to Exhibit No. 10.39 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.26	Letter employment agreement with Ivan Szeftel, dated May 4, 1998 (incorporated by reference to Exhibit No. 10.40 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).

10.27	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).
10.28	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).
10.29	License to use the Air Miles Trademarks in the United States, 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. 10.45 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.30	Amended and Restated Credit Agreement between Alliance Data Systems Corporation, and Loyalty Management Group Canada Inc., the Guarantors party thereto, the Banks party thereto, and Morgan Guaranty Trust Company of New York, dated July 24, 1998 (incorporated by reference to Exhibit No. 10.31 to our Registration Statement on Form S-1 filed with the SEC on January 13, 2000, File No. 333-94623).
10.31	Second Amendment to Amended and Restated Credit Agreement, dated as of September 29, 2000, by and among Alliance Data Systems Corporation, Loyalty Management Group Canada Inc., the Banks party thereto, Morgan Guaranty Trust Company of New York and Harris Trust and Savings Bank (incorporated by reference to Exhibit No. 10.49 to our Registration Statement on Form S-1 filed with the SEC on June 9, 2000, File No. 333-94623).
10.32	Third Amendment to Amended and Restated Credit Agreement, dated as of January 10, 2001 between Alliance Data Systems Corporation, Loyalty Management Group Canada Inc., the Banks party thereto and Harris Trust and Savings Bank (incorporated by reference to Exhibit No. 10.51 to our Registration Statement on Form S-1 filed with the SEC on January 26, 2001, File No. 333-94623).
*10.33	Fourth Amendment to Amended and Restated Credit Agreement, entered into as of March 15, 2002 between Alliance Data Systems Corporation, Loyalty Management Group Canada Inc., the Banks party thereto and Harris Trust and Savings Bank.
10.34	Supplier Agreement between Loyalty Management Group Canada and Air Canada dated as of April 24, 2000 (incorporated by reference to Exhibit No. 10.56 to our Registration Statement on Form S-1 filed with the SEC on May 4, 2001, File No. 333-94623).

10.35	Second Amended and Restated Pooling And Servicing Agreement, dated as of January 17, 1996 amended and restated as of September 17, 1999 and July , 2001 by and among WFN Credit Company, LLC, World Financial Network National Bank, and BNY Midwest Trust Company, World Financial Network Credit Card Master Trust (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).
10.36	Transfer and Servicing Agreement 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).
*21	List of Subsidiaries.
*23	Consent of Independent Public Accountants.

* Filed herewith

(b) Reports on Form 8-K for the quarter ended December 31, 2001

We filed the following Current Reports on Form 8-K during the fourth quarter of 2001:

Current Report on Form 8-K filed on December 13, 2001 with respect to a press release we issued concerning guidance for fourth quarter and year end financial results.

Current Report on Form 8-K filed on November 19, 2001 to report an error made by our filing agent in the filing of a Current Report on Form 8-K/A on November 16, 2001.

Current Report on Form 8-K/A filed on November 16, 2001 stating that our acquisition of Mailbox Capital Corporation was not financially material, individually or in the aggregate with other acquisitions since the audited financial statements dated December 31, 2000, and that financial statements and pro forma financial information were not required.

Current Report on Form 8-K filed on October 18, 2001 with respect to a press release we issued announcing earnings results for the third quarter ended September 30, 2001.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS
ALLIANCE DATA SYSTEMS CORPORATION

ALLIANCE DATA SYSTEMS CORPORATION
INDEPENDENT AUDITORS' REPORT

To the Stockholders of
Alliance Data Systems Corporation

We have audited the accompanying consolidated balance sheets of Alliance Data Systems Corporation and subsidiaries as of December 31, 2000 and 2001, and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2001. Our audits also include the financial statement schedule listed in the Index at Item 14. These financial statements and the financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements and the financial statement schedule based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. 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 and Subsidiaries as of December 31, 2000 and 2001, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2001 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.

As discussed in Note 2 to the consolidated financial statements, in 2001 the Company changed its method of accounting for derivative instruments and hedging activities to conform to Statement of Financial Accounting Standards No. 133, as amended.

/s/ Deloitte & Touche LLP
Deloitte & Touche LLP

Dallas, Texas
March 25, 2002

ALLIANCE DATA SYSTEMS CORPORATION

CONSOLIDATED STATEMENTS OF OPERATIONS

(amounts in thousands, except per share amounts)

	Year Ended December 31,		
	1999	2000	2001
Revenues			
Transaction and marketing services	$ 368,026	$ 415,792	$ 482,223
Redemption revenue	59,017	87,509	110,199
Financing charges, net	141,947	156,349	164,276
Other income	14,092	18,545	20,653
Total revenue	583,082	678,195	777,351
Operating expenses			
Cost of operations	466,856	547,985	603,493
General and administrative	35,971	32,201	45,431
Depreciation and other amortization	16,183	26,265	30,698
Amortization of purchased intangibles	61,617	49,879	43,506
Total operating expenses	580,627	656,330	723,128
Operating income	2,455	21,865	54,223

Other non-operating expense	—	2,477	5,000
Fair value loss on interest rate derivative	—	—	15,131
Interest expense	42,785	38,870	30,097
Income (loss) from continuing operations before income taxes, discontinued operations and extraordinary item	(40,330)	(19,482)	3,995
Income tax expense (benefit)	(6,538)	1,841	11,612
Loss from continuing operations before discontinued operations and extraordinary item	(33,792)	(21,323)	(7,617)
Income from discontinued operations, net of income taxes	7,688	—	—
Loss on disposal of discontinued operations, net of income taxes	(3,737)	—	—
Extraordinary item, net	—	—	(615)
Net loss	$ (29,841)	$ (21,323)	$ (8,232)
Loss per share from continuing operations, before discontinued operations and extraordinary item—basic and diluted	$ (0.78)	$ (0.60)	$ (0.17)
Net loss per share—basic and diluted	$ (0.70)	$ (0.60)	$ (0.18)
Weighted average shares—basic and diluted	47,498	47,538	64,555

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION

CONSOLIDATED BALANCE SHEETS

(amounts in thousands, except per share amounts)

	December 31,	
	2000	2001
ASSETS		
Cash and cash equivalents	$ 116,941	$ 117,535
Due from card associations	113,354	46,554
Trade receivables less allowance for doubtful accounts ($3,876 and $1,423 at December 31, 2000 and 2001, respectively)	98,455	88,444
Seller's interest and credit card receivables less allowance for doubtful accounts ($3,657 and $4,766 at December 31, 2000 and 2001, respectively)	137,865	128,793
Deferred tax asset, net	22,365	37,163
Other current assets	35,368	45,014
Total current assets	524,348	463,503
Redemption settlement assets, restricted	152,007	150,330
Property and equipment, net	92,178	112,190
Deferred tax asset, net	55,366	26,068
Other non-current assets	18,753	16,990
Due from securitizations	133,978	216,140
Intangible assets and goodwill, net	444,549	491,997
Total assets	$ 1,421,179	$ 1,477,218
LIABILITIES AND STOCKHOLDERS' EQUITY		
Accounts payable	$ 64,143	$ 82,290
Accrued expenses	80,547	73,135
Merchant settlement obligations	149,271	137,711
Other liabilities	36,725	25,268
Debt, current portion	161,725	111,325
Total current liabilities	492,411	429,729
Other liabilities	1,856	13,112
Deferred revenue—service	88,931	98,077
Deferred revenue—redemption	201,255	231,472
Long-term and subordinated debt	274,335	199,100
Total liabilities	1,058,788	971,490
Commitments and contingencies		

Series A cumulative convertible preferred stock, $0.01 par value; authorized, issued and outstanding, 120 shares (December 31, 2000) and none (December 31, 2001)	119,400	—
Stockholders' equity:		
Common stock, $0.01 par value; authorized 200,000 shares; issued and outstanding, 47,545 shares (December 31, 2000) and 73,987 shares (December 31, 2001)	475	740
Additional paid-in capital	226,323	509,741
Treasury stock	—	(6,151)
Retained earnings	16,370	8,138
Accumulated other comprehensive loss	(177)	(6,740)
Total stockholders' equity	242,991	505,728
Total liabilities and stockholders' equity	$ 1,421,179	$ 1,477,218

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

(amounts in thousands)

	Common Stock		Additional paid-in capital	Treasury Stock	Retained earnings	Accumulated other comprehensive income (loss)	Total comprehensive loss	Total stockholders' equity
	Shares	Amount						
December 31, 1998	47,487	$ 475	$ 225,797	$ —	$ 67,534	$ 999		$ 294,805
Net loss					(29,841)		$ (29,841)	(29,841)
Other comprehensive loss, net of tax:								
Unrealized loss on securities available-for-sale, net						(4,684)	(4,684)	(4,684)
Foreign currency translation adjustments						(585)	(585)	(585)
Other comprehensive loss						(5,269)		
Total comprehensive loss							$ (35,110)	
Common stock issued	42	—	377					377
December 31, 1999	47,529	475	226,174	—	37,693	(4,270)		260,072
Net loss					(21,323)		$ (21,323)	(21,323)
Other comprehensive income, net of tax:								
Unrealized gain on securities available-for-sale, net						3,774	3,774	3,774
Foreign currency translation adjustments						319	319	319
Other comprehensive income						4,093		
Total comprehensive loss							$ (17,230)	
Common stock issued	16	—	149					149
December 31, 2000	47,545	475	226,323	—	16,370	(177)		242,991
Net loss					(8,232)		$ (8,232)	(8,232)
Other comprehensive loss, net of tax:								
Cumulative effect of change in accounting for derivatives						323	323	323
Change in fair value of derivatives						342	342	342
Reclassifications into earnings						(3,151)	(3,151)	(3,151)
Unrealized loss on securities available for sale, net						833	833	833
Foreign currency translation adjustments						(4,910)	(4,910)	(4,910)
Other comprehensive loss						(6,563)		
Total comprehensive loss							$ (14,795)	
Conversion of series A preferred stock	11,199	112	119,288					119,400
Purchase of treasury stock				(6,151)				(6,151)
Common stock issued in conjunction with initial public offering	14,950	150	160,622					160,772
Other common stock issued	293	3	3,508					3,511
December 31, 2001	73,987	$ 740	$ 509,741	$ (6,151)	$ 8,138	$ (6,740)		$ 505,728

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION

CONSOLIDATED STATEMENTS OF CASH FLOWS

(amounts in thousands)

	Year Ended December 31,		
	1999	2000	2001
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	$ (29,841)	$ (21,323)	$ (8,232)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	77,800	76,144	74,204
Deferred income taxes	(37,600)	(13,114)	13,499
Accretion of deferred income	(5,950)	(5,967)	(4,729)
Fair value loss on interest rate derivative	—	—	15,131
Provision (credit) for doubtful accounts	(3,540)	(2,797)	(4,492)
Change in operating assets and liabilities, net of acquisitions:			
Change in trade accounts receivable	81,276	(43,845)	11,062
Change in merchant settlement activity	10,480	17,148	55,240
Change in other assets	33,449	20,056	(6,457)
Change in accounts payable and accrued expenses	37,187	12,550	(5,793)
Change in deferred revenue	91,149	40,845	39,363
Change in other liabilities	11,621	475	(9,115)
Other operating activities	(14,393)	7,011	—
Net cash provided by operating activities	251,638	87,183	169,681
CASH FLOWS FROM INVESTING ACTIVITIES:			
(Increase) decrease in redemption settlement assets	(63,976)	(18,357)	1,677
Purchase of credit card receivables	(33,817)	—	(106,308)
Change in due from securitizations	(26,404)	14,280	(82,162)
Net cash paid for corporate acquisitions	(171,423)	—	(88,977)
Proceeds from sale of credit card receivable portfolios	—	—	104,882
Change in seller's interest	22,471	12,703	15,117
Capital expenditures	(36,302)	(33,083)	(36,637)
Net cash used in investing activities	(309,451)	(24,457)	(192,408)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings under debt agreements	249,625	148,546	376,300
Repayment of borrowings	(294,473)	(147,551)	(501,935)
Proceeds from issuance of preferred stock	119,400	—	—
Proceeds from issuance of common stock	377	149	164,283
Purchase of treasury stock	—	—	(6,151)
Net cash provided by financing activities	74,929	1,144	32,497
Effect of exchange rate changes	(7,606)	(3,475)	(9,176)
Change in cash and cash equivalents	9,510	60,395	594
Cash and cash equivalents at beginning of period	47,036	56,546	116,941
Cash and cash equivalents at end of period	$ 56,546	$ 116,941	$ 117,535
SUPPLEMENTAL CASH FLOW DISCLOSURE:			
Interest paid	$ 43,215	$ 38,078	$ 31,732
Income taxes paid, net of refunds	$ 25,242	$ 14,498	$ 3,589
NONCASH FINANCING DISCLOSURE:			
Preferred stock conversion	$ —	$ —	$ 119,400

See accompanying notes to consolidated financial statements.

ALLIANCE DATA SYSTEMS CORPORATION

NOTES TO THE 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, the "Company") is a leading provider of transaction services, credit services and marketing services in the United States and Canada. The Company facilitates and manages transactions between its clients and their customers through multiple distribution channels including in-store, catalog and the Internet. Through the Credit Services and Marketing Services segments, the Company assists its clients in identifying and acquiring new customers, and helps to increase the loyalty and profitability of its clients' existing customers.

The Company operates in three reportable segments: Transaction Services, Credit Services and Marketing Services. Transaction Services encompasses card processing, customer care and billing and payment processing for specialty and petroleum retail (Issuer Services), and network and merchant bankcard services (Merchant Services), and

regulated and de-regulated utilities (Utility Services). Credit Services provides private label receivables financing. Credit Services generally securitizes the credit card receivables that it underwrites from its private label programs. Marketing Services provides loyalty programs, such as AIR MILES® Reward Program and database marketing.

2. SUMMARY OF SIGNIFICANT POLICIES

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

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

Due from Card Associations and Merchant Settlement Obligations—Due from card associations and merchant settlement obligations result from the Company's network servicing and associated settlement activities. Due from card associations is generated from credit card transactions, such as Mastercard, Visa and American Express, at merchant locations. The Company records corresponding settlement obligations for amounts payable to merchants.

Credit Card Receivables—Credit card receivables are generally securitized immediately or shortly after origination. As part of its securitization agreements, the Company is required to retain an interest in the credit card receivables, which is referred to as seller's interest. Seller's interest is carried at fair value and credit card receivables are carried at lower of cost or market less an allowance for doubtful accounts. In its capacity as a servicer of the credit card receivables, the Company receives a servicing fee from the World Financial Network Credit Card Master Trust. Management estimates the cost incurred in servicing the credit card receivables approximates the service fees received, and therefore has not recorded a servicing asset or liability as of December 31, 2000 and 2001.

Redemption Settlement Assets—These securities relate to the redemption fund for the AIR MILES Reward Program and are held in trust for the benefit of funding redemptions by collectors. These securities are stated at fair value, with the unrealized gains and losses, net of tax, reported as a component of accumulated other comprehensive loss. Debt securities for which the Company does not have the positive intent and ability to hold to maturity are classified as securities available-for-sale.

Property and Equipment—Furniture, fixtures, computer equipment and software, and leasehold improvements are carried at cost, less accumulated depreciation and amortization. Depreciation and amortization are computed on a straight-line basis, using estimated lives ranging from 3 to 15 years.

Leasehold improvements are amortized over the remaining useful lives of the respective leases or the remaining useful lives of the improvements, whichever are shorter. Software development (costs to create new platforms for certain of the Company's information systems) and conversion costs (systems, programming and other related costs to allow conversion of new client accounts to the Company's processing systems) are amortized on a straight-line basis over the length of the associated contract or benefit period, which generally ranges from three to five years.

Revenue Recognition Policy

Transaction and Marketing Services—The Company earns transaction fees, which are principally based on the number of transactions processed and statements generated and are recognized as such services are performed.

AIR MILES Reward Program—The Company allocates the proceeds received from sponsors for the issuance of AIR MILES reward miles based on relative fair values between the redemption element of the award ultimately provided to the collector (the "Redemption element") and its service element. This service element consists of direct marketing and support services provided to sponsors (the "Service element").

The fair value of the Service element is based on the estimated fair value of providing the services on a third-party basis. The revenue related to the Service element of the AIR MILES reward miles is initially deferred and amortized over the period of time beginning with the issuance of the AIR MILES reward miles and ending upon their expected redemption (the estimated life of an AIR MILES reward mile).

The fair value of the Redemption element of the AIR MILES reward miles issued is determined based on separate pricing offered by the Company as well as other objective evidence. 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 in the case of reward miles that the Company estimates will go unused by the collector base ("breakage").

Financing charges, net—Financing charges, net, represents gains and losses on securitization of credit card receivables and interest income on seller's interest less a provision (credit) for doubtful accounts of $(3.7 million), $(4.9 million) and $(9.0 million) and related interest expense of $10.4 million, $6.2 million and $6.4 million for the years ended December 31, 1999, 2000 and 2001, respectively.

The Company records gains or losses on the securitization of credit card receivables on the date of sale based on cash received the estimated fair value of assets sold and retained and liabilities incurred in the sale. Gains represent the present value of estimated future cash flows the Company has retained over the estimated outstanding period of the receivables. The anticipated excess cash flow essentially represents an interest only ("I/O") strip, consisting of the excess of finance charges and past-due fees over the sum of the return paid to certificate holders and credit losses. The amount initially allocated to the I/O strip at the date of a securitization reflected the allocated original basis of the relative fair values of those interests. The amount recorded for the I/O strip was reduced for distributions on I/O strip, which the Company received from the related trust, and was adjusted for changes in the fair value of the I/O strip, which were reflected in other comprehensive income. Because there is not a highly liquid market for these assets, we estimated the fair value of the I/O strip primarily based upon

discount, prepayment and default rates we estimate that another market participant would use to purchase the I/O strip. The estimated market assumptions were applied based upon the underlying loan portfolio grouped by loan types, terms, credit quality, interest rates, geographic location, and value of loan collateral, which are the predominant characteristics that affect prepayment and default rates.

In recording and accounting for I/O strip, we made assumptions, which we believed reasonably reflected economic and other relevant conditions that affect fair value, which were then effect, about rates of prepayments, and defaults and the value of collateral. Due to subsequent changes in economic and other relevant conditions, the actual rates of prepayments and defaults and the value of the collateral generally differed from our initial estimates, and these differences were sometimes material. If actual prepayments and default rates were higher than previously assumed, the value of the I/O strip would be impaired and the declines in the fair value would be recorded in earnings.

Goodwill and Other Intangibles—Goodwill represents the excess of purchase price over the fair value of net assets acquired arising from business combinations and is being amortized on a straight-line basis over estimated useful lives ranging from 20 to 25 years. Other intangibles primarily represent identified intangible assets acquired in business

combinations and are being amortized over estimated useful lives ranging from 27 months to 20 years. Beginning in 2002, the Company will no longer amortize goodwill in accordance with Statement of Financial Accounting Standards ("SFAS") No. 142.

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 is based on the weighted average number of common and potentially dilutive common shares, dilutive stock options and other dilutive securities outstanding during the year. Potentially dilutive common shares were approximately 1.2 million for 2001. However, as the Company generated net losses, potentially dilutive common shares, composed of incremental common shares issuable upon exercise of stock options and warrants and upon conversion of Series A preferred stock, are not included in diluted net loss per share because such shares are anti-dilutive.

The following table sets forth the computation of basic and diluted net loss per share for the periods indicated (in thousands, except per share data):

	Year Ended December 31,		
	1999	2000	2001
	(In thousands, except per share amounts)		
Numerator			
Loss from continuing operations, before discontinued operations and extraordinary item	$ (33,792)	$ (21,323)	$ (7,617)
Preferred stock dividends	(3,377)	(7,200)	(3,240)
Loss from continuing operations, before discontinued operations and extraordinary item, available to common stockholders	(37,169)	(28,523)	(10,857)
Income from discontinued operations	7,688	—	—
Loss on disposal of discontinued operations	(3,737)	—	—
Extraordinary item, net	—	—	(615)
Net loss available to common stockholders	$ (33,218)	$ (28,523)	$ (11,472)
Denominator			
Weighted average shares	47,498	47,538	64,555
Weighted average effect of dilutive securities:			
Net effect of dilutive stock options	—	—	—
Net effect of dilutive stock warrants	—	—	—
Denominator for diluted calculation	47,498	47,538	64,555
Loss per share from continuing operations, before discontinued operations and extraordinary item, available to common stockholders	$ (0.78)	$ (0.60)	$ (0.17)
Income per share from discontinued operations—basic and diluted	0.08	—	—
Loss per share from extraordinary item—basic and diluted	—	—	(0.01)
Net loss per share—basic and diluted	$ (0.70)	$ (0.60)	$ (0.18)

Management Estimates—The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America 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.

Currency Translation—The assets and liabilities of the Company's subsidiaries outside the U.S. 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).

Income Taxes—Deferred income taxes are provided for differences arising in the timing of income and expenses for financial reporting and for income tax purposes using the asset/liability method of accounting. Under this method, deferred income taxes are recognized for the future tax consequences attributable to the differences between the financial statements' carrying amounts of existing assets and liabilities and their respective tax bases, using enacted tax rates.

Long-Lived Assets—Long-lived assets, goodwill and other intangible assets are evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets or intangibles may not be recoverable. Recoverability is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets.

Derivative Instruments—The Company uses interest rate swaps to hedge its exposure to interest and foreign exchange rate changes. Effective January 1, 2001, the Company adopted Statement of Financial Accounting Standards ("SFAS") No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended, which requires that all derivative instruments be reported on the balance sheet at fair value. If the derivative instrument is a hedge, depending on the nature of the hedge, changes in the fair value of the derivative instrument are either recognized in net income or in other comprehensive income ("OCI") until the hedged item is recognized in net income. For derivatives that do not qualify as hedges under SFAS No. 133, the change in fair value is recorded as part of earnings. The adoption of SFAS No. 133 on January 1, 2001, resulted in the recognition of $323,000 (net of tax) in OCI. It is the policy of the Company to execute such instruments with creditworthy banks and not to enter into derivative financial instruments for speculative purposes. See note 16 for more information regarding derivatives.

Recently Issued Accounting Standards—In September 2000, the Financial Accounting Standards Board ("FASB") issued SFAS No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities", which replaced SFAS No. 125 and revised the standards for accounting for securitizations and other transfers of financial assets and collateral and requires certain disclosures. SFAS No. 140 is effective for transfers and servicing of financial assets and extinguishments of liabilities occurring after March 31, 2001. Disclosures relating to securitization transactions are required for fiscal years ending after December 15, 2000. The adoption of SFAS No. 140 did not have a material impact on the results of operations.

In June 2001, the FASB issued SFAS No. 141, "Business Combinations" and SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 141 prohibits the use of the pooling-of-interest method for business combinations initiated after June 30, 2001 and also applies to all business combinations accounted for by the purchase method that are completed after June 30, 2001. There are also transition provisions that apply to business combinations completed before July 1, 2001, that were accounted for by the purchase method. SFAS No. 142 is effective for fiscal years beginning after December 15, 2001 for all goodwill and other intangible assets recognized in an entity's statement of financial position at that date, regardless of when those assets were initially recognized. SFAS No. 142 changes the accounting for goodwill and other indefinite life intangible assets from an amortization method to an impairment only approach. Upon adoption of SFAS No. 142, as of January 1, 2002, amortization of current goodwill and certain other intangibles determined by management to have an indefinite life will cease, thereby reducing amortization expense for 2002 by approximately $18.0 million before taxes. The Company currently expects no impairment to goodwill or certain other intangibles.

In August 2001, the FASB issued SFAS No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets." SFAS No. 144 supersedes SFAS No. 121 "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of" and the accounting and reporting provisions of APB Opinion No. 30 "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions" and amends ARB No. 51 "Consolidated Financial Statements." SFAS No. 144 retains many of the requirements of SFAS No. 121 and the basic provisions of Opinion 30; however, it establishes a single accounting model for long-lived assets to be disposed of by sale. The provisions of SFAS No. 144 are effective for financial statements issued for fiscal years beginning after December 15, 2001 and are to be applied prospectively. The Company does not anticipate the adoption of SFAS No. 144 will have a material effect on the Company's financial position or results of operations.

In July 2000, the Emerging Issues Task Force ("EITF") finalized the provisions of EITF Issue No. 99-20. "Recognition of Interest Income and Impairment on Purchased and Retained Beneficial Interests in Securitized Financial Assets", ("EITF 99-20"). EITF 99-20 sets forth rules for recognizing interest income and determining when securities must be written down to fair value because of other than temporary impairments. EITF 99-20 requires the "prospective method" of adjusting the recognition of interest income when the anticipated cash flows have either increased or decreased. Anticipated cash flows can change as the result of factors such as prepayment rates and credit losses. Under the provisions of EITF 99-20, an other than temporary impairment must be recorded when the anticipated cash flows have decreased since the last estimate and the fair value of the Retained Interest is less than the carrying value.

The Company implemented EITF 99-20 April 1, 2001 and the implementation did not have a material impact on the results of operations.

Reclassifications—For purposes of comparability, certain prior period amounts have been reclassified to conform with the current year presentation.

3. ACQUISITIONS

During 2001, 2000 and 1999 the Company completed the following acquisitions:

Business	Month Acquired	Services	Consideration
2001:			
Utilipro, Inc.	February 2001	Utility Services	Cash for Assets
ConneXt, Inc.	August 2001	Utility Services	Cash for Assets
MailBox Capital Corp.	September 2001	Transaction Services	Cash for Assets
2000:			
None			
1999:			
SPS Payment Systems, Inc.	July 1999	Merchant Services	Cash for Assets

The acquisitions were accounted for as purchases and, accordingly, the operations of the acquired companies were included in the consolidated financial statements since their respective dates of acquisition as set forth above. Pro forma information for acquisitions is not presented as the impact was not material.

The following table summarizes the purchase price for the acquisitions, and the allocation thereof:

	1999	2000	2001
		(in thousands)	
Identifiable intangible assets	$ 22,000	$ —	$ 15,424
Goodwill	144,552	—	63,219
Other net assets acquired	4,871	—	10,334
Purchase price	$ 171,423	$ —	$ 88,977

The Company does not anticipate any significant adjustments to the purchase price allocations.

4. REDEMPTION SETTLEMENT ASSETS

Redemption settlement assets consist of cash and cash equivalents and securities available-for-sale and are designated for settling the Company's redemptions by collectors under its AIR MILES Reward Program in Canada under certain contractual relationships with its sponsors. 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, 2000		December 31, 2001	
	Unrealized		Unrealized	

	Cost	Gains	Losses	Fair value	Cost	Gains	Losses	Fair Value
	(in thousands)							
Cash and cash equivalents	$ 115,309	$ —	$ —	$ 115,309	$ 77,840	$ —	$ —	$ 77,840
Government bonds	16,278	35	(457)	15,856	6,069	136	—	6,205
Corporate bonds	21,134	18	(355)	20,797	65,119	1,166	—	66,285
Equity securities	35	10	—	45	—	—	—	—
Total	$ 152,756	$ 63	$ (812)	$ 152,007	$ 149,028	$ 1,302	$ —	$ 150,330

5. PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	December 31,	
	2000	2001
	(in thousands)	
Software development and conversion costs	$ 75,450	$ 82,070
Computer equipment and purchased software	36,767	48,184
Furniture and fixtures	40,491	51,817
Leasehold improvements	34,455	42,339
Construction in progress	4,542	2,203
Total	191,705	226,613
Accumulated depreciation	(99,527)	(114,423)
Property and equipment, net	$ 92,178	$ 112,190

6. SECURITIZATION OF CREDIT CARD RECEIVABLES

The Company regularly securitizes its credit card receivables to World Financial Network Credit Card Master Trust. 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 each month to the investors or held in an account until it accumulates to the total amount, at which time it is paid to the investors in a lump sum. The Company's outstanding securitizations are scheduled to begin their amortization or accumulation periods at various times between 2002 and 2004.

The following table shows the maturities of borrowing capacity as of December 31, 2001 for World Financial Network Credit Card Master Trust by year:

	2002	2003	2004	Total
	(in thousands)			
Public notes	$ 600,000	$ 350,000	$ 900,000	$ 1,850,000
Private conduits	589,000	—	—	589,000
Total	$ 1,189,000	$ 350,000	$ 900,000	$ 2,439,000

"Due from securitizations" consists of spread deposits, I/O strips and excess funding deposits as shown in the table below:

	December 31,	
	2000	2001
	(in thousands)	
Spread deposits	$ 100,807	$ 127,769
I/O strips	33,171	43,371
Excess funding deposits	—	45,000
	$ 133,978	$ 216,140

The spread deposits, I/O strips and excess funding deposits are initially recorded at their allocated carrying amount based on relative fair value. Fair value is determined by computing the present value of the estimated cash flows, using the dates that such cash flows are expected to be released to the Company, at a discount rate considered to be commensurate with the risks associated with the cash flows. The amounts and timing of the cash flows are estimated after considering various economic factors including prepayment, delinquency, default and loss assumptions.

I/O strips, seller's interest and other interests retained are periodically evaluated for impairment based on the fair value of those assets.

Fair values of I/O strips and other interests retained are based on a review of actual cash flows and on the factors that affect the amounts and timing of the cash flows from each of the underlying credit card receivable pools. Based on this analysis, assumptions are validated or revised as deemed necessary, the amounts and the timing of cash flows are estimated and fair value is determined. The Company has one collateral type, private label credit cards.

At December 31, 2001, key economic assumptions and the sensitivity of the current fair value of residual cash flows to immediate 10 percent and 20 percent adverse changes in the assumptions are as follows:

	Assumption	Impact on fair value of 10% change	Impact on fair value of 20% change
		(in thousands)	
Fair value of retained interest	$ 43,371		
Weighted average life	8.5 months		
Discount rate	9.0%	$ 105	$ 209
Expected yield, net of dilution	22.3%	17,191	27,875
Interest expense	3.2%	2,252	3,146
Net charge-offs rate	8.5%	6,936	13,759

These sensitivities are hypothetical and should be used with caution. As the figures indicate, changes in fair value based on a 10 percent variation in assumptions generally cannot be extrapolated because the relationship of the change in assumption to the change in fair value may not be linear. Also, in this table, the effect of a variation in a particular assumption on the fair value of the retained interest is calculated without changing any other assumption; in reality, changes in one factor may result in changes in another, which might magnify or counteract the sensitivities.

Spread deposits, carried at estimated fair value, represent deposits that are held by a trustee or agent and are used to absorb losses related to securitized credit card receivables if those losses exceed the available net cash flows arising from the securitized credit card receivables. The fair value of spread deposits is based on the weighted average life of the underlying securities and the discount rate. The discount rate is based on a risk adjusted rate paid on the series. The amount required to be deposited is approximately 3.25% of credit card receivables in the trust, other than with respect to the trust in early amortization, for which all excess funds are required to be deposited. Spread deposits are generally released proportionately as investors are repaid, although some spread deposits are released only when investors have been paid in full. None of these spread deposits were required to be used to cover losses on securitized credit card receivables in the three-year period ended December 31, 2001.

The table below summarizes certain cash flows received from and paid to securitization trusts:

	Year Ended December 31,	
	2000	2001
	(in millions)	
Proceeds from collections reinvested in previous credit card securitizations	$ 4,235.7	$ 3,768.2
Proceeds from new securitizations	—	900.0
Servicing fees received	39.6	41.9
Other cash flows received on retained interests	146.8	134.4

The table below presents quantitative information about the components of total credit card receivables managed, delinquencies and net charge-offs:

	At December 31,	
	2000	2001
	(in millions)	
Total principal of credit card receivables managed	$ 2,331.0	$ 2,467.3
Less credit card receivables securitized	2,319.7	2,451.0
Credit card receivables held	11.3	16.3
Principal amount of credit card receivables 90 days or more past due	64.5	64.5

	December 31,	
	2000	2001
	(in thousands)	
Net charge-offs including billed, unpaid finance charges and fees	$ 208,558	$ 254,698

The Company is required to maintain minimum interests ranging from 3% to 6% of the securitized credit card receivables. This requirement is met through seller's interest, and is supplemented through the excess funding deposits. Excess funding deposits represent cash amounts deposited with the trustee of the securitizations. As of December 31, 2000 and 2001, the outstanding balance of excess funding deposits was none and $45.0 million, respectively.

7. INTANGIBLE ASSETS AND GOODWILL

Intangible assets and goodwill consist of the following:

	December 31,		Amortization Life and Method
	2000	2001	
	(in thousands)		
Premium on purchased credit card portfolios	$ 1,936	$ 10,693	3 years—straight line
Customer contracts and lists	46,700	61,124	3-20 years—straight line
Noncompete agreements	2,300	3,300	1-5 years—straight line
Goodwill	407,833	471,031	20-25 years—straight line
Deferred incentives	10,753	10,753	27 months—straight line
Sponsor contracts	38,306	38,306	5 years—declining balance

Collector database	47,043	47,043	15%—declining balance
Total	554,871	642,250	
Accumulated amortization	(110,322)	(150,253)	
Intangible assets and goodwill, net	$ 444,549	$ 491,997	

8. DEFERRED REVENUE

A reconciliation of deferred revenue—service, and deferred revenue—redemption, for the AIR MILES Reward Program is as follows:

	Year Ended December 31,	
	2000	2001
	(in thousands)	
Deferred Revenue—Service		
Beginning balance	$ 84,474	$ 88,931
Cash proceeds	55,091	58,056
Revenue recognized	(47,098)	(48,314)
Other	(3,536)	(596)
Ending balance	$ 88,931	$ 98,077
Deferred Revenue—Redemption		
Beginning balance	$ 164,867	$ 201,255
Cash proceeds	90,889	106,394
Revenue recognized	(49,597)	(70,408)
Other	(4,904)	(5,769)
Ending balance	$ 201,255	$ 231,472

The Company currently estimates breakage to be one-third of Air Miles issued.

9. DEBT

Debt consists of the following:

	December 31,	
	2000	2001
	(in thousands)	
Certificates of deposit	$ 139,400	$ 120,800
Subordinated notes	102,000	102,000
Credit agreement	194,660	87,625
	436,060	310,425
Less: current portion	(161,725)	(111,325)
Long term portion	$ 274,335	$ 199,100

Certificates of Deposit—Terms of the certificates of deposit range from three months to 24 months with annual interest rates ranging from 5.5% to 7.5% at December 31, 2000 and from 2.8% to 7.5% at December 31, 2001. Interest is paid monthly and at maturity.

Subordinated Notes—The Company has outstanding subordinated notes with its two largest stockholders in the aggregate principal amount of $50.0 million. Such notes bear annual interest at 10% payable semiannually. These notes were issued at an aggregate discount of approximately $3.6 million, and such discount is accreted into interest expense using the effective rate of approximately 12% over

the life of the notes. The notes are to be repaid on October 25, 2005. The Company may, at its option, prepay the notes at their face amount.

The Company has outstanding a subordinated note with an affiliate in the principal amount of $52.0 million. Such note bears annual interest at 10% payable semi-annually. The note is to be repaid in two equal installments in September 2007 and September 2008. The Company may, at its option, prepay the note at its face amount.

Credit Facility—The credit facility has two pieces: Term Loans and Line of Credit. Funds borrowed under this credit facility bear interest at the higher of (i) the prime rate for such day or (ii) the sum of $^1/_2$ of 1% plus the Federal funds rate for a base rate loan plus the base rate margin or (iii) the sum of the Euro-dollar margin plus the LIBOR rate applicable to such period for each Euro-dollar loan. Interest is payable quarterly in arrears.

Term Loans—The Company currently has outstanding two separate term loan facilities each in the amount of $50.0 million. The first term loan is payable in four separate annual installments of $3.1 million commencing July 30, 1999 with a final lump sum payment of $37.5 million due July 25, 2003. The second term loan is payable in six separate annual installments of $1.0 million commencing July 30, 1999 with a final lump sum payment of $44.0 million due July 25, 2005. The effective interest rates on the two term loans were 4.3% and 9.3%, respectively, at December 31, 2001. The Company repaid $90.8 million of term loans with proceeds from its initial public offering.

Line of Credit—The Company has available borrowings under a line of credit agreement of $100.0 million.

Debt at December 31, 2001 matures as follows (in thousands):

2002	$ 111,325
2003	52,100
2004	1,000
2005	94,000
2006	—
Thereafter	52,000
	$ 310,425

10. INCOME TAXES

The Company files a consolidated federal income tax return. Components of the provision (credit) for income taxes are as follows:

	Year Ended December 31,		
	1999	2000	2001
	(in thousands)		
Current			
Federal	$ 18,827	$ (1,100)	$ (13,783)
State	483	2,424	4,683
Foreign	9,610	13,631	7,213
Total current	28,920	14,955	(1,887)
Deferred			
Federal	(15,081)	7,227	14,615
State	1,182	(669)	(345)
Foreign	(21,559)	(19,672)	(771)
Total deferred	(35,458)	(13,114)	13,499
Tax (benefit) expense related to continuing operations	(6,538)	1,841	11,612
Tax expense related to discontinued operations	2,127	—	—
Tax benefit related to extraordinary items	—	—	(410)
Total income tax expense (benefit)	$ (4,411)	$ 1,841	$ 11,202

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

	Year Ended December 31,		
	1999	2000	2001
	(in thousands)		
Expected (benefit) expense at statutory rate	$ (14,115)	$ (6,819)	$ 1,398
Increase (decrease) in income taxes resulting from:			
State and foreign income taxes	296	1,552	1,740
Non-deductible (taxable) foreign losses (gains)	623	1,339	(1,930)
Non-deductible acquired goodwill and other intangibles	7,639	4,718	5,013
Foreign rate reduction impact	—	—	5,706
Other—net	(981)	1,051	(315)
Total	$ (6,538)	$ 1,841	$ 11,612

Deferred tax assets and liabilities consist of the following:

	December 31,	
	2000	2001
	(in thousands)	

Deferred tax assets		
Deferred income	$ 9,506	$ —
Deferred revenue	42,955	44,754
Allowance for doubtful accounts	2,380	1,951
Intangible assets	18,506	12,944
Net operating loss carryforwards	13,458	37,415
Depreciation	3,046	2,907
Discontinued operations	826	353
Derivatives	—	2,983
Accrued expenses	400	5,337
Other	5,836	5,298
Total deferred tax assets	96,913	113,942
Deferred tax liabilities		
Deferred income	$ —	$ 25,034
Servicing rights	10,990	15,179
Other	26	—
Total deferred tax liabilities	11,016	40,213
Net deferred tax asset before valuation allowance	85,897	73,729
Valuation allowance	(8,166)	(10,498)
Net deferred tax asset	$ 77,731	$ 63,231

At December 31, 2001, the Company had approximately $74.1 million of federal net operating loss carryforwards, which expire at various times through 2020. In addition, the Company has approximately $243 million of state net operating loss carryforwards, which expire at various times through 2017. The utilization of $18 million of the $74.1 million federal NOL's are subject to limitations under Section 382 of the Internal Revenue Code on account of changes in the equity ownership. NOL's for both financial reporting and tax reporting purposes are subject to a valuation allowance established for the tax benefit associated with their respective unrealizable federal and state NOL's. In 2001, the Company increased the valuation allowance by $2.3 million. The valuation allowance relates primarily to state NOL's and reduces deferred tax assets to an amount that represents management's best estimate of the amount of such deferred tax assets that more likely than not will be realized.

The Canadian corporate income tax rates for years beginning in 2001 forward have been decreased. For 2001, the Company recorded $5.7 million of income tax expense to reduce the net deferred tax assets in Canada related to the lower income tax rates.

11. STOCKHOLDERS' EQUITY

During March 2000, the stockholders approved an increase in the number of authorized shares from 66,666,667 shares to 200,000,000 shares.

In July 1999, the Company entered into a preferred stock purchase agreement and issued 120,000 shares of its Series A Cumulative Convertible Preferred Stock for proceeds of $120.0 million to an affiliate. In accordance with the terms of the preferred stock, the preferred stock was converted into 11,199,340 shares of common stock in connection with the Company's IPO on June 13, 2001. The terms of the preferred stock purchase agreement included, among other things, the following:

- Dividends were payable by the Company upon declaration by the Board of Directors. Dividends were cumulative and dividends not paid currently were to accrue and compound quarterly at an annual rate of 6.0%. Dividends in arrears at the time of the conversion were approximately $14.4 million.
- Each share was convertible into common shares at a conversion rate based on the lesser of $13.50 or the initial public offering price, at the option of the holder, at any time following issuance. Upon a $75.0 million or greater initial public offering, shares were mandatorily convertible into common stock at the stated conversion price.
- The shares had an aggregate liquidation preference equal to the face amount plus all accrued and unpaid dividends.
- Each share could vote together with the common stock on an as-converted basis.
- All issued and outstanding shares would have been redeemable on July 12, 2007 at a per share redemption price as defined in the agreement.

On June 13, 2001, the Company consummated an initial public offering, which consisted of 14,950,000 shares, including exercise of the underwriters' over-allotment option, of common stock, at a price to the public of $12.00 per share. After deducting expenses and underwriting discounts and commissions, the Company received net offering proceeds of approximately $160.8 million. The Company used proceeds of approximately $90.8 million to repay in full the outstanding balance of a term loan.

The Company's Board of Directors authorized a one million share repurchase program in September 2001. The Company repurchased 418,200 shares of its common stock for approximately $6.2 million under this program in 2001.

12. STOCK COMPENSATION PLANS

Certain of the Company's employees have been granted stock options under the Company's Stock Option and Restricted Stock Purchase Plan (the "Plan"), as amended and restated. The purpose of the Plan is to benefit and advance the interests of the Company by rewarding certain employees for their contributions to the financial success of the Company and thereby motivating them to continue to make such contributions in the future. The stock options generally vest over three to four years and expire 10 years after the date of grant. Terms of all awards are determined by the Board of Directors at the time of award.

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions:

	Year Ended December 31,		
	1999	2000	2001
Expected dividend yield	—	—	—
Risk-free interest rate	7.0%	7.0%	5.0%
Expected life of options (years)	4.0 yrs	4.0 yrs	4.0 yrs
Assumed volatility	0.01%	0.01%	56.2%
Weighted average fair value	$2.43	$3.60	$5.86

The following table summarizes stock option activity under the Plan:

	Outstanding		Exercisable	
	Options	Weighted average exercise price	Options	Weighted average exercise price
	(in thousands, except per share amounts)			
Balance at December 31, 1998	1,817	$ 9.18		
Granted	644	10.14		
Exercised	(42)	9.00		
Cancelled	(71)	9.09		
Balance at December 31, 1999	2,348	9.54	1,311	$ 9.30
Granted	2,648	14.98		
Exercised	(17)	9.09		
Cancelled	(96)	10.39		
Balance at December 31, 2000	4,883	12.45	1,232	$ 9.31
Granted	2,844	12.13		
Exercised	(238)	10.80		
Cancelled	(970)	13.07		
Balance at December 31, 2001	6,519	$ 12.34	2,353	$ 11.34

The following table summarizes information concerning currently outstanding and exercisable stock options at December 31, 2001:

	Outstanding			Exercisable	
Range of exercise prices	Options	Remaining contractual life (Years)	Weighted average exercise price	Options	Weighted average exercise price
	(in thousands, except per share amounts)				
$9.00 to $13.00	4,308	8.01	$ 10.96	1,626	$ 9.71
$13.01 to $18.00	2,211	8.53	$ 15.02	727	$ 15.00

The Company applies APB Opinion No. 25 and related interpretations in accounting for the Plan. The effect of determining compensation cost for the Company's stock-based compensation plan based

on the fair value at the grant dates for awards under the Plan consistent with the methods of SFAS No. 123 is disclosed in the following pro forma information:

	Year Ended December 31,		
	1999	2000	2001
		(in thousands, except per share amounts)	
Net loss:			
As reported	$ (29,841)	$ (21,323)	$ (8,232)
Pro forma	(30,331)	(25,708)	(17,992)
Basic and diluted loss per share:			
As reported	$ (0.70)	$ (0.60)	$ (0.18)
Pro forma	(0.71)	(0.69)	(0.33)

The Plan also provides for the granting of performance-based restricted stock awards to certain officers of the Company. As of December 31, 2001 performance-based restricted awards representing an aggregate of 571,600 shares had been granted with 114,320 shares being vested. The restricted shares subject to these grants will not vest unless specified performance measures tied to either EBITDA or return on stockholders' equity are met. If these performance targets are met, some of these restricted shares will vest over a five year period. However, some of the restricted shares may vest on a more accelerated basis if certain annual EBITDA performance targets are met.

13. EMPLOYEE BENEFIT PLANS

The Company sponsors separate defined contribution plans for World Financial Network National Bank ("WFNNB") and ADS Alliance Data Systems, Inc. ("ADSI") that cover qualifying employees based on service and age requirements. The Company makes matching (WFNNB) or discretionary (ADSI) contributions as determined by the Board of Directors.

The Company maintains a 401(k) profit sharing plan, which covers all eligible employees. In addition, the Company may make a discretionary contribution based on each eligible participant's compensation. Participants are eligible to receive matching contributions from the Company up to the first 3% of the participant's contributions with the potential of an additional match on the second 3% of contributions. This additional match is made annually and at the discretion of the Board of Directors. The Participants in the Plan can direct their contributions and the Company's matching contribution to several investment options, including the Company's common stock. Participant contributions vest immediately and the Company's contributions vest based on the participant's age, years of vesting service and eligible compensation attained as of December 31 of the Plan year. Contributions for the years ended December 31, 1999, 2000 and 2001 were $4.5 million, $5.5 million and $6.9 million respectively.

In February 2001, the Company adopted an Employee Stock Purchase Plan and reserved 1,500,000 shares of common stock for issuance under the plan. In accordance with Internal Revenue Service regulations, this plan permits eligible employees to authorize payroll deductions of up to $21,250 per year or 100% of their salary, whichever is less, to purchase common stock of the Company at 85% of the fair market value. The fair market value is determined each quarter as the lesser of the closing price on the first trading day of the quarter or the last trading day of the quarter.

14. COMMITMENTS AND CONTINGENCIES

The Company has entered into certain contractual arrangements that result in a fee being billed to the sponsors upon redemption of AIR MILES reward miles. The Company has obtained revolving letters of credit from certain of these sponsors that expire at various dates. These letters of credit total $59.2 million at December 31, 2001, which exceeds the estimated amount of the obligation to provide travel and other rewards.

The Company currently has an obligation to fund redemption of AIR MILES reward miles as they are redeemed by collectors. The Company believes that the redemption settlement assets are sufficient to meet that obligation.

The Company leases certain office facilities and equipment under noncancellable operating leases and is generally responsible for property taxes and insurance. Future annual minimum rental payments required under noncancellable operating leases, some of which contain renewal options, as of December 31, 2001 are (in thousands):

Year:	
2002	$ 38,611
2003	28,245
2004	21,380
2005	14,683
2006	12,371
Thereafter	22,440
Total	$ 137,730

WFNNB is subject to various regulatory capital requirements administered by the federal banking agencies. Failure to meet minimum capital requirements can initiate certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could have a direct material effect on the Company's financial statements. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, WFNNB must meet specific capital guidelines that involve quantitative measures of its assets, liabilities and certain off-balance-sheet items 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.

Quantitative measures established by regulation to ensure capital adequacy require WFNNB to maintain minimum amounts and ratios of total and Tier 1 capital (as defined in the regulations) to risk weighted assets (as defined) and of Tier 1 capital (as defined) to average assets (as defined) ("total capital ratio", "Tier 1 capital ratio" and "leverage ratio", respectively). Under the regulations, a "well capitalized" institution must have a Tier 1 capital ratio of at least six percent, a total capital ratio of at least 10 percent and a leverage ratio of at least five percent and not be subject to a capital directive order. An "adequately capitalized" institution must have a Tier 1 capital ratio of at least four percent, a total capital ratio of at least eight percent and a leverage ratio of at least four percent, but three percent is allowed in some cases. Under these guidelines, WFNNB is considered well capitalized. As of December 31, 2001, WFNNB's Tier 1 capital ratio was 11.5%, total capital ratio was 11.8% and leverage ratio was 49.3%, and WFNNB was not subject to a capital directive order.

Holders of credit cards issued by the Company have available lines of credit, which vary by accountholder, 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, 2001, WFNNB had approximately 36.5 million active accountholders, having an unused line of credit averaging $681 per account.

The Company has entered into certain long-term arrangements to purchase tickets from its airline and other suppliers. These long-term arrangements allow the Company to make purchases at set prices. At December 31, 2001, the Company had no material minimum purchase commitments with these suppliers.

Significant Concentration of Credit Risk—The Company's Credit Services segment is active in originating private label 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. Card holders reside throughout the United States and are not significantly concentrated in any one area.

15. FINANCIAL INSTRUMENTS

The Company is a party to financial instruments with off-balance sheet risk in the normal course of business to meet the financial needs of its customers and to reduce its own exposure to fluctuations in interest rates. These financial instruments include commitments to extend credit through charge cards, interest rate swaps and futures contracts. Such instruments involve, to varying degrees, elements of credit and interest rate risk in excess of the amount recognized in the balance sheet. The contract or normal amounts of these instruments reflect the extent of the Company's involvement in particular classes of financial instruments.

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

	December 31,

	2000		2001	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(in thousands)			
Financial assets				
Cash and cash equivalents	$ 116,941	$ 116,941	$ 117,535	$ 117,535
Redemption settlement assets	152,007	152,007	150,330	150,330
Trade receivables	115,727	115,727	88,444	88,444
Credit card receivables and seller's interest, net	137,865	137,865	128,793	128,793
Due from securitizations	133,978	133,978	216,140	216,140
Financial liabilities				
Accounts payable	63,570	63,570	82,290	82,290
Debt	436,060	427,125	310,425	310,425
Derivatives	$ —	$ (5,478)	$ (10,930)	$ (10,930)

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

Cash and Cash Equivalents—The carrying amount approximates fair value due to the short maturity of the cash investments.

Trade Receivables—The carrying amount approximates fair value due to the short maturity, and the average interest rates approximate current market origination rates.

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

Redemption Settlement Assets—Fair value for securities are based on quoted market prices.

Due From Securitizations—The carrying amount of the securitization spread account approximates its fair value due to the relatively short maturity period and average interest rates which approximate current market rates.

Accounts Payable—Due to the relatively short maturity periods, the carrying amount approximates the fair value.

Debt—The fair value was estimated based on the current rates available to the Company for debt with similar remaining maturities.

Derivatives—The fair value was estimated based on the cost to the Company to terminate the agreements.

16. DERIVATIVES

The following briefly outlines the terms of borrowing related derivative financial instruments as of December 31, 2001:

Outstanding Notional Amount	Maturity Date	Fixed/variable rate received	Fixed/variable rate paid
Interest rate derivatives			
$200,000,000	May 15, 2004	LIBOR	6.720%
Foreign currency derivatives			
$40,625,000	July 25, 2003	LIBOR +1.50%	CDOR +1.76%
$47,000,000	July 25, 2005	LIBOR +3.25%	9.265%

The Company utilizes certain derivative financial instruments to enhance its ability to manage risks that exist as part of ongoing business operations. Effective January 1, 2001, with the adoption of SFAS No. 133, the Company recognizes all derivatives on the balance sheet at their fair value. The estimated fair value of the derivatives is based primarily on dealer quotations. The Company presently uses derivatives to mitigate cash flow risks with respect to changes in foreign exchange and interest rates. On the date the derivative contract is entered into, the Company designates the derivative as a hedge of a forecasted transaction (cash flow hedge) or as a hedge of a change in fair value (fair value hedge). Changes in the fair value of a derivative that is designated and qualifies as a cash flow hedge are recorded in OCI and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. Changes in the fair value of a derivative that is designated and qualifies as

a fair value hedge are generally recorded immediately in earnings along with the corresponding change in fair value of the hedged item. Amounts on the balance sheet are recorded as a component of "Other liabilities." Changes in the fair value of a derivative that is not designated as a hedge are recorded immediately in earnings. Derivative instruments are entered into for periods consistent with related underlying exposures and do not constitute positions independent of those exposures. The Company does not enter into contracts for speculative purposes.

The Company's policy is to minimize its cash flow exposure to adverse changes in interest rates and foreign exchange rates. The Company's objective is to engage in risk management strategies that provide adequate downside protection. The Company does not believe that its derivative financial instruments expose it to more than a nominal amount of credit risk, as the counterparties are established, well-capitalized financial institutions with a major rating agency credit rating of "A" or better. The credit risk inherent in these agreements represents the possibility that a loss may occur from the nonperformance of a counterparty to the agreements.

Foreign Currency Derivatives

The Company's cash flows are exposed to foreign currency risk primarily from transactions denominated in the Canadian dollar. The Company utilizes two cross-currency swaps to hedge its balance sheet exposure on $87.6 million of U.S. dollar denominated debt payable by its Canadian subsidiary. The cross-currency swaps reduce in proportion to the debt repayment schedule. A cross-currency swap with a notional amount of $40.6 million does not meet the accounting criteria to be designated as a hedge, however fair value adjustments recorded in earnings offset the related transaction gains and losses. The other cross-currency swap hedges interest rate risk by effectively converting variable rate interest paid to fixed rate amounts. Gains and losses on the derivatives are intended to offset losses and gains on the hedged transactions in an effort to reduce the earnings volatility resulting from fluctuating foreign currency exchange rates. Changes in the fair value of the cross-currency swap designated as a hedging instrument related to the variability of cash flows associated with foreign currency risk is reported in OCI. These amounts are reclassified into earnings in the same period in which the foreign currency transaction gains or losses occur.

Interest Rate Derivatives

SFAS No. 133, as amended, specifies criteria that must be met in order to apply any of the three forms of hedge accounting. The Company uses derivatives to hedge exposures when it makes economic sense to do so, including circumstances in which the hedging relationship does not qualify for hedge accounting. The Company has an interest rate swap agreement, which serves to effectively convert the variable rates on debt related to World Financial Network Credit Card Master Trust to fixed rate amounts but which does not qualify for hedge accounting under SFAS No. 133, as amended. Under SFAS No. 133, as amended, derivatives that do not qualify for hedge accounting are marked to market through earnings. The aggregate notional amount of the interest rate swap agreement was $200.0 million at December 31, 2001. The swap term ends mid-2004. Upon adoption of SFAS No. 133, as amended, the Company recorded a transition adjustment to OCI of $4.0 million, net of tax, to recognize the fair value loss that existed at that time. During the year ended December 31, 2001, the Company recognized approximately $13.0 million, before tax, in additional fair value losses related to this agreement. During the year ending December 31, 2002, approximately $1.1 million, net of tax, of losses in OCI related to the interest rate swap are expected to be reclassified into earnings.

As of December 31, 2001, the Company had $3.2 million of unamortized treasury lock gains recorded in accumulated other comprehensive income. The treasury locks were entered into to mitigate interest rate fluctuations related to a $600 million offering of asset-backed notes that mature in 2002. The treasury lock gains are being amortized over the life on the asset-backed notes. Accordingly, the effective interest rate of the asset-backed notes changed from approximately 7.0% to 6.2%. $4.4 million net of tax was reclassified from a previously recorded deferred income balance.

17. PARENT ONLY FINANCIAL STATEMENTS

Balance Sheets	**December 31,**	
	2000	**2001**
	(in thousands)	
Assets:		
Cash and cash equivalents	$ 7	$ —
Investment in subsidiaries	292,472	264,274
Intercompany receivables	271,250	346,659
Other assets	8,935	6,250
Total assets	$ 572,664	$ 617,183
Liabilities:		
Long-term and subordinated debt	$ 204,910	$ 102,000
Other liabilities	5,363	9,455
Total liabilities	210,273	111,455
Stockholders' equity	362,391	505,728
Total liabilities and stockholders' equity	$ 572,664	$ 617,183

Statements of Income	**Year Ended December 31,**		
	1999	**2000**	**2001**
	(in thousands)		
Interest from loans to subsidiaries	$ 23,962	$ 24,648	$ 27,237
Dividends from subsidiaries	40,000	32,000	1,900
Processing and servicing fees	3,553	—	—
Total revenue	67,515	56,648	29,137
Interest expense	25,981	24,296	16,324
Other expense	256	970	151
Total expense	26,237	25,266	16,475
Income before income taxes, equity in undistributed net income and extraordinary item	41,278	31,382	12,662
Income tax expense	720	540	4,475
Income before equity in undistributed net income, and extraordinary item	40,558	30,842	8,187
Extraordinary item, net	—	—	(615)
Equity in undistributed net income	(70,399)	(52,165)	(15,804)
Net income	$ (29,841)	$ (21,323)	$ (8,232)

Note: Alliance Data Systems Corporation accounts for its investments in subsidiaries under the cost method.

Statements of Cash Flows	**Year Ended December 31,**		
	1999	**2000**	**2001**
	(in thousands)		
Net cash provided by (used in) operating activities	$ 115,555	$ 99,338	$ (51,060)
Investing activities:			
Net cash paid for corporate acquisitions	(169,322)	10,925	5,831

Loans to subsidiaries	—	(93,000)	(10,000)
Net cash used in investing activities	(169,322)	(82,075)	(4,169)
Financing activities:			
Borrowings from subsidiaries	41,331	—	—
Issuance of credit facility and subordinated debt	320,624	391,000	249,000
Repayment of credit facility and subordinated debt	(428,854)	(408,405)	(351,910)
Net proceeds from preferred stock	119,400	—	—
Net proceeds from issuances of common stock	377	149	164,283
Purchase of treasury stock	—	—	(6,151)
Net cash provided by (used in) financing activities	52,878	(17,256)	55,222
Increase (decrease) in cash and cash equivalents	(889)	7	(7)
Cash and cash equivalents at beginning of year	889	—	7
Cash and cash equivalents at end of year	$ —	$ 7	$ —

18. SEGMENT INFORMATION

Operating segments are defined by SFAS 131 as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. The Company's chief operating decision making group is the Executive Committee, which consists of the Chairman of the Board and Chief Executive Officer, Presidents of the divisions, and Executive Vice Presidents. 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 accounting policies of the operating segments are generally the same as those described in the summary of significant accounting policies. Corporate overhead is allocated to the segments based on a percentage of the segment's revenues. Interest expense and income taxes are not allocated to the segments in the computation of segment operating profit for internal evaluation purposes. Transaction Services performs servicing activities related to Credit Services. For this, Transaction Services receives a fee equal to its direct costs before corporate overhead allocation plus a margin. The margin is based on

current market rates for similar services. Revenues are attributed to geographic areas based on the location of the unit processing the underlying transactions.

Year Ended December 31, 1999	**Transaction Services**	**Credit Services**	**Marketing Services**	**Other/ Elimination**	**Total**
			(in thousands)		
Revenues	$ 381,115	$ 247,824	$ 138,310	$ (184,167)	$ 583,082
Depreciation and amortization	28,814	12,060	36,926	—	77,800
Operating profit	13,014	17,743	(28,302)	—	2,455

Year Ended December 31, 2000	**Transaction Services**	**Credit Services**	**Marketing Services**	**Other/ Elimination**	**Total**
			(in thousands)		
Revenues	$ 439,376	$ 268,183	$ 178,214	$ (207,578)	$ 678,195
Depreciation and amortization	41,747	1,259	33,138	—	76,144
Operating profit	13,017	24,059	(15,211)	—	21,865

Year Ended December 31, 2001	**Transaction Services**	**Credit Services**	**Marketing Services**	**Other/ Elimination**	**Total**
			(in thousands)		
Revenues	$ 503,178	$ 289,420	$ 201,651	$ (216,898)	$ 777,351
Depreciation and amortization	44,716	3,470	26,018	—	74,204
Operating profit	25,351	25,689	3,183	—	54,223

Information concerning principal geographic areas is as follows:

	United States	**Rest of World(1)**	**Total**
		(in thousands)	
Revenues			
Year Ended December 31, 1999	$ 467,629	$ 115,453	$ 583,082
Year Ended December 31, 2000	518,839	159,356	678,195
Year Ended December 31, 2001	590,709	186,642	777,351
Total assets			
December 31, 2000	$ 937,422	$ 483,757	$ 1,421,179
December 31, 2001	1,017,722	459,496	1,477,218

(1) Primarily Canada.

19. RELATED PARTY TRANSACTIONS

One of the Company's stockholders, Welsh, Carson, Anderson & Stowe and related affiliates ("WCAS"), provides significant financing to the Company. As of December 31, 2001:

-

The Company has outstanding a 10% subordinated note to WCAS, in the principal amount of $30.0 million. Principal on the note is due on October 25, 2005 and interest is payable semi-annually in arrears on each January 1 and July 1. Additionally, the Company issued similar notes to The Limited in the amount of $20.0 million.

- Additionally, the Company has outstanding a 10% subordinated note to WCAS, in the principal amount of $52.0 million. Principal on the note is due in two equal installments on September 15, 2007 and September 15, 2008. Interest is payable semi-annually in arrears on each March 15 and September 15. In conjunction with the issuance of the notes, the Company issued 655,556 shares of common stock.

- Upon consummation of the initial public offering, the Company's series A preferred stock was converted into approximately 11,199,340 shares of common. WCAS was the holder of the preferred stock.

The Company paid WCAS $1.2 million in 1999 for fees related to acquisitions.

The other significant stockholder of the Company, The Limited (through its retail affiliates), is a significant customer, representing 17.2% of total revenue. The Limited revenue is derived from all segments but primarily from transaction and credit services. The majority of revenue comes from the Company's cardholders who are customers of The Limited. The Company has entered into credit card processing agreements and a database marketing agreement with several retail affiliates of The Limited. The Company has received database and merchant discount fees directly from The Limited and its retail affiliates of $46.6 million for 1999, $46.7 million for 2000 and $44.9 million for 2001.

20. SUBSEQUENT EVENTS

In January 2002, the Company acquired Frequency Marketing, Inc. ("FMI"), a small marketing services firm, adding new products for the Company's loyalty and one-to-one marketing offerings in the U.S. The preliminary purchase price allocation, which equals the total purchase price, of $26.2 million resulted in identifiable intangible assets of $14.9 million, which are being amortized over a 2-5 year period, and goodwill of $14.9 million.

On March 15, 2002, the Company entered into an amendment of its credit agreement to, among other things, permit the Company to obtain a $50.0 million, 364-day, short-term revolving loan facility in addition to the existing $100.0 million revolving loan commitment. Significant changes to the credit agreement covenants include a reduction of the leverage ratio from 4.0 times to 3.0 times and allowance of repayment of subordinated debt.

21. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED)

Unaudited quarterly results of operations for the years ended December 31, 2001 and 2000 are presented below. Subsequent to the issuance of the Company's interim financial statements for the three months ended March 31, June 30, and September 30, 2001, it was determined that an economic hedge on debt related to World Financial Network Credit Card Master Trust did not meet the criteria for hedge accounting under the provisions of SFAS No. 133, as amended, which was adopted on January 1, 2001. In its previously issued interim financial statements for 2001, the Company had designated an interest rate swap agreement as a hedge against its cash flow exposures and included the change in fair value of the interest rate swap in OCI. These changes should be included in earnings. As a result, the operating results presented below for the quarters ended March 31, June 30, September 30 and December 31, 2001 have been restated.

	Quarter Ended							
	March 31, 2001		June 30, 2001		September 30, 2001		December 31, 2001	
	As originally reported	As restated	As originally reported	As restated	As originally reported	As restated	As originally reported	As restated
	(in thousands, except per share amounts)							
Revenue	$ 180,692	$ 181,180	$ 182,565	$ 183,679	$ 200,152	$ 201,650	$ 208,640	$ 210,843
Operating expenses	170,071	170,071	171,895	171,895	186,058	186,058	195,104	195,104
Other non-operating expense(1)	—	—	—	—	—	—	5,000	5,000
Fair value loss on interest rate derivative		5,431		390		8,813		497
Interest expense	9,635	9,635	8,566	8,566	6,092	6,092	5,803	5,803
Income (loss) before extraordinary item and income taxes	986	(3,957)	2,104	2,828	8,002	687	2,733	4,439
Income tax expense (benefit)	933	(797)	2,002	2,255	7,502	4,942	4,615	5,213
Income (loss) before extraordinary item	53	(3,160)	102	573	500	(4,255)	(1,882)	(774)
Loss from extinguishment of debt (less applicable income taxes of $410)	—	—	(615)	(615)	—	—	—	—
Net income (loss)	$ 53	$ (3,160)	$ (513)	$ (42)	$ 500	$ (4,255)	$ (1,882)	$ (774)
Income (loss) per share before extraordinary item—basic and diluted	$ (0.04)	$ (0.10)	$ (0.03)	$ (0.02)	$ 0.01	$ (0.06)	$ (0.03)	$ (0.01)
Net income (loss) per share—basic and diluted	$ (0.04)	$ (0.10)	$ (0.04)	$ (0.03)	$ 0.01	$ (0.06)	$ (0.03)	$ (0.01)

(1) Relates to the write-off of an investment in a utility services venture made in 2000.

	Quarter Ended			
	March 31, 2000	June 30, 2000	September 30, 2000	December 31, 2000
	(in thousands, except per share amounts)			
Revenues	$ 165,547	$ 166,690	$ 168,807	$ 177,152
Operating expenses	161,868	162,239	162,557	169,669
Other non-operating expense(1)	2,476	—	—	—

Interest expense	8,776	9,516	9,949	10,629
Loss before income taxes	(7,573)	(5,065)	(3,699)	(3,146)
Income tax expense	716	479	350	297
Net loss	$ (8,289)	$ (5,544)	$ (4,049)	$ (3,443)
Net loss per share—basic and diluted	$ (0.21)	$ (0.15)	$ (0.12)	$ (0.11)

(1) Relates to a non-operating loss on disposal of equity securities.

SCHEDULE II

ALLIANCE DATA SYSTEMS CORPORATION
CONSOLIDATED VALUATION AND QUALIFYING ACCOUNTS
(in thousands)

Description	Balance at beginning of period	Increases	Deductions	Balance at end of period
Allowance for Doubtful Accounts—Trade receivables:				
Year Ended December 31, 1999	$ 3,576	$ 5,814	$ (8,311)	$ 1,079
Year Ended December 31, 2000	1,079	3,565	(768)	3,876
Year Ended December 31, 2001	3,876	3,735	(6,188)	1,423
Allowance for Doubtful Accounts—Credit Card receivables:				
Year Ended December 31, 1999	$ 4,888	$ 14,951	$ (16,182)	$ 3,657
Year Ended December 31, 2000	3,657	13,828	(13,828)	3,657
Year Ended December 31, 2001	3,657	18,887	(17,778)	4,766

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 of Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

ALLIANCE DATA SYSTEMS CORPORATION

Date: March 29, 2002 By: /s/ J. MICHAEL PARKS

J. Michael Parks
Chairman of the Board, Chief Executive Officer and Director

Pursuant to the requirements of the Securities and 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.

Signature	Title	
/s/ J. MICHAEL PARKS J. Michael Parks	Chairman of the Board, Chief Executive Officer and Director	March 29, 2002
/s/ EDWARD J. HEFFERNAN Edward J. Heffernan	Executive Vice President and Chief Financial Officer	March 29, 2002
/s/ MICHAEL D. KUBIC Michael D. Kubic	Vice President, Corporate Controller, and Chief Accounting Officer	March 29, 2002
/s/ BRUCE K. ANDERSON Bruce K. Anderson	Director	March 29, 2002
/s/ ROGER H. BALLOU Roger H. Ballou	Director	March 29, 2002
/s/ DANIEL P. FINKELMAN Daniel P. Finkelman	Director	March 29, 2002
/s/ ROBERT A. MINICUCCI	Director	March 29, 2002

Robert A. Minicucci		
/s/ ANTHONY J. DE NICOLA		
Anthony J. de Nicola	Director	March 29, 2002
/s/ KENNETH R. JENSEN		
Kenneth R. Jensen	Director	March 29, 2002
/s/ BRUCE A. SOLL		
Bruce A. Soll	Director	March 29, 2002

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Exhibit 3.4

SECOND AMENDMENT TO THE SECOND AMENDED AND RESTATED BYLAWS
OF
ALLIANCE DATA SYSTEMS CORPORATION
a Delaware corporation
(the "Company")
(Adopted as of March 20, 2002)

Sections 2.6.3 and 10.3 of the Amended and Restated Bylaws of Alliance Data Systems Corporation are amended and restated to read in their entirety as follows:

Section 2.6.3 Proxies. Every Stockholder entitled to vote at a meeting or to express consent or dissent without a meeting or a stockholder's duly authorized attorney-in-fact may authorize another person or persons to act for him by proxy. Each proxy shall be electronic, including but not limited to, internet and telephone, with reasonable safeguards to verify the authenticity of the shareholder, or in writing, executed by the stockholder giving the proxy or by his duly authorized attorney. No proxy shall be voted on or after three years from its date, unless the proxy provides for a longer period. Unless and until voted, every proxy shall be revocable at the pleasure of the person who executed it, or his legal representatives or assigns, except in those cases where an irrevocable proxy permitted by statute has been given.

Section 10.3 Means of Giving Notice. Whenever under applicable law, the certificate of incorporation or these bylaws, notice is required to be given to any director or stockholder, such notice may be given in writing and delivered personally, through the United States mail, by a recognized express delivery service (such as Federal Express), by means of telegram, telex or facsimile transmission, addressed to such director or stockholder at his or her address or telex or facsimile transmission number, as the case may be, or by electronic means, including but not limited to internet and email, to such director or stockholder at his or her email address to such director or stockholder at his or her email address appearing on the records of the Company, with postage and fees thereon prepaid. Notice of any meeting of the Board may be given to a director by telephone and shall be deemed given when actually received by the director.

QuickLinks

SECOND AMENDMENT TO THE SECOND AMENDED AND RESTATED BYLAWS OF ALLIANCE DATA SYSTEMS CORPORATION a Delaware corporation (the "Company") (Adopted as of March 20, 2002)

Use these links to rapidly review the document
EXHIBIT A

BUILD-TO-SUIT NET LEASE

BETWEEN

OPUS SOUTH CORPORATION

AS LANDLORD

AND

ADS ALLIANCE DATA SYSTEMS, INC.,

AS TENANT

JANUARY , 1998

BUILD-TO-SUIT NET LEASE

THIS BUILD-TO-SUIT NET LEASE ("**Lease**") is entered into as of January , 1998 by and between the Landlord and Tenant identified in *Section 1.1*.

1. **DEFINITIONS AND EXHIBITS**

1.1 **Definitions.** In this Lease, the following defined terms have the meanings set forth for them below or in the section of this Lease indicated below:

"**ADA**" means the Americans with Disabilities Act, as amended from time to time.

"**Additional Rent**" means all amounts required to be paid by Tenant under this Lease in addition to Basic Rent including, without limitation, Taxes and insurance premiums.

"**Affiliates**" means, with respect to any party, any entities or individuals that control, are controlled by or are under common control with such party, together with its and their respective partners, venturers, directors, officers, shareholders, trustees, trustors, beneficiaries, agents, employees and spouses.

"**Allowance**" has the meaning set forth in *Section 3.10*.

"**Approved Expansion Base Building Plans**" has the meaning set forth in *Section 18(b)*.

"**Approved Expansion Costs**" has the meaning set forth in *Section 18(d)*.

"**Approved Expansion Leasehold Improvements Plans**" has the meaning set forth in *Section 18(c)*.

"**Approved Expansion Rentable Square Feet**" has the meaning set forth in *Section 18(f)*.

"**Approved Original Base Building Plans**" has the meaning set forth in *Section 3.2*.

"**Approved Original Leasehold Improvements Plans**" has the meaning set forth in *Section 3.3*.

"**Approved Original Rentable Square Feet**" has the meaning set forth in *Section 3.6*.

"**Approved Tenant's Costs**" has the meaning set forth in *Section 3.4*.

"**Basic Rent**" means the Original Basic Rent and, if applicable, the Expansion Basic Rent.

"**Building**" means the Original Building and the Expansion Building.

"**Core Building Systems**" means the items delineated on *Exhibit K*.

"**Deadline Extension**" has the meaning set forth in *Section 3.2*.

"**Environmental Laws**" means the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act, U.S.C. Section 9601 *et seq.* (including the so-called "Superfund" amendments thereto), any other applicable Laws governing or pertaining to any hazardous substances, hazardous wastes, chemicals or other materials, including, without limitation, asbestos, polychlorinated biphenyls, radon, petroleum and any derivative thereof or any common law theory based on nuisance or strict liability.

"**Event of Default**" has the meaning set forth in *Section 15.2*.

"**Expansion Base Building**" has the meaning set forth in *Section 18(a)*.

"**Expansion Base Building Plans**" has the meaning set forth in *Section 18(b)*.

"**Expansion Basic Rent**" has the meaning set forth in *Section 18(j)(ii)(b)*.

"**Expansion Building**" has the meaning set forth in *Section 18(a)*.

"**Expansion Change Order**" has the meaning set forth in *Section 18(e)*.

"**Expansion Commencement Date**" has the meaning set forth in *Section 18(j)(i)*.

"**Expansion Costs**" means the actual amount of those costs described on *Exhibit J* which Landlord incurs in connection with the construction of the Expansion Building. Expansion Costs specifically do not include any acquisition or carrying costs for any portion of the Land, it being understood that those costs are included in the Original Basic Rent for the Original Premises. Landlord and Tenant further agree that Expansion Costs will include (a) the cost of general conditions and insurance, not to exceed three percent (3%) of the cost of the construction work, excluding soft costs, (b) overhead, not to exceed three percent (3%) of the cost of the construction work, excluding soft costs and the general conditions and insurance and (c) a general contractor's fee payable to Landlord in an amount equal to five percent (5%) of the construction work, excluding soft costs and overhead.

"**Expansion Leasehold Improvements**" has the meaning set forth in *Section 18(a)*.

"**Expansion Leasehold Improvements Plans**" has the meaning set forth in *Section 18(c)*.

"**Expansion Punch List**" has the meaning set forth in *Section 18(h)*.

"**Fair Market Rent**" has the meaning set forth in *Section 2.5*.

"**Final Completion**" means that all Landlord's Original Work or Landlord's Expansion Work, as the case may be, has been fully and finally completed.

"**Financed Amount**" has the meaning set forth in *Section 3.10*.

"**First Renewal Term**" has the meaning set forth in *Section 2.5*.

"**First Stage Completion**" means that Landlord's Original Work on the first floor of the Original Building has been Substantially Completed and the first floor of the Original Building is ready for and can be occupied by Tenant.

"**Force Majeure**" means any delays due to strikes, riots, acts of God, war, or any other causes of any kind whatsoever which are beyond the control of Landlord or Tenant at any time during the term of this Lease, it being agreed that the inability to perform financial obligations (including, without limitation, paying the Basic Rent and other charges due under this Lease), shortages of labor or materials, and governmental laws, rules or restrictions shall not constitute events beyond the reasonable control of Landlord or Tenant.

"**Guarantor**" means Alliance Data Systems Corporation, a Delaware corporation, but the term "**Guarantor**" means any then-existing guarantor of Tenant's obligations under this Lease pursuant to a guaranty agreement substantially similar to the form attached to this Lease as *Exhibit G* or another form reasonably acceptable to Landlord.

"**Hazardous Substance**" means any substance, chemical or material declared to be, or regulated as, hazardous or toxic under any Environmental Law or the presence of which may give rise to liability under any Environmental Law.

"**Improvements**" means the Building, the Leasehold Improvements, and any other structures, pavement, landscaping, lighting fixtures or other improvements now or later constructed or installed upon the Land.

"**Interest Rate**" means the prime interest rate (as published from time to time by *The Wall Street Journal*, and with any changes in such rate to be effective on the date such change is

published) plus 5% per annum, but if such rate exceeds the maximum interest rate permitted by law, such rate will be reduced to the highest rate allowed by law under the circumstances.

"**Land**" means the real property located on Waterview Parkway in the City of Dallas, Collin County, Texas (including all of its appurtenant rights and easements) and legally described on *Exhibit A*.

"**Landlord**" means Opus South Corporation, a Florida corporation.

"**Landlord's Expansion Work**" has the meaning set forth in *Section 18(a)*.

"**Landlord's Notice Address**" means:

12225 Greenville Avenue
Suite 900
Dallas, Texas 75243-9363
Telecopy: (972) 669-2216

with a copy to:

700 Opus Center
9900 Bren Road East
Minnetonka, Minnesota 55343
Attention: Legal Department
Telecopy: (612) 936-9808

"**Landlord's Original Work**" means the construction and installation of the Original Base Building and the Original Leasehold Improvements.

"**Landlord's Rent Address**" means:

5401 Corporate Woods Drive
Suite 100
Pensacola, Florida 32504

"**Landlord's Representative**" means Lamar Lawson.

"**Laws**" means any and all present or future federal, state or local laws, statutes, ordinances, rules, regulations or orders of any and all governmental or quasi-governmental authorities having jurisdiction.

"**Leasehold Improvements**" means the Original Leasehold Improvements and the Expansion Leasehold Improvements.

"**Original Base Building**" means those portions of the Original Building and the associated site Improvements on the Land (such as driveways, parking areas, landscaping and exterior lighting) that are specified on *Exhibit B* and are identified with an asterisk (*) on *Exhibit C* under the column "Base Building Core & Shell".

"**Original Base Building Plans**" has the meaning set forth in *Section 3.2*.

"**Original Basic Rent**" means the rent payable according to *Section 4.1*.

"**Original Building**" means the building containing approximately 114,419 rentable square feet to be constructed by Landlord for Tenant upon the Land according to *Section 3* and includes both the Original Base Building and the Original Leasehold Improvements.

"**Original Change Order**" has the meaning set forth in *Section 3.5*.

"**Original Commencement Date**" means the first day of the Term, which will be the Third Stage Completion Date, unless the Original Commencement Date is extended according to *Section 3.6*.

"**Original Leasehold Improvements**" means all leasehold improvements and installations, in addition to the Original Base Building, that are to be constructed or installed by Landlord for Tenant according to *Section 3*, and which are identified with an asterisk (*) on *Exhibit C* under the column "Tenant Improvement".

"**Original Leasehold Improvements Plans**" means construction plans and specifications for the Original Leasehold Improvements.

"**Original Premises**" means the Land and the Original Building.

"**Original Punch List**" has the meaning set forth in *Section 3.8*.

"**Original Term**" means the period between the Original Commencement Date and the Expiration Date.

"**Permitted Expansion Force Majeure Delays**" has the meaning set forth in *Section 18(g)*.

"**Permitted Original Force Majeure Delays**" has the meaning set forth in *Section 3.7*.

"**Plan Approval Delay**" has the meaning set forth in *Section 3.2* and *Section 3.3*.

"**Premises**" means the Land and all then-existing Improvements.

"**Projected Expansion Completion Date**" has the meaning set forth in *Section 18(f)*.

"**Release Conditions**" means all of the following conditions have been met: (a) the assignee of this Lease or sublessee of all of the Premises has a net worth (excluding goodwill) of at least $75 million, (b) if such assignee or sublessee is a subsidiary of any entity, Tenant has obtained and delivered to Landlord a guaranty by such parent entity of the assignee or sublessee's obligations under this Lease, and (c) in the event Tenant subleases the entire Premises (it being understood and agreed that this condition does not apply in the case of an assignment), Tenant has obtained and delivered to Landlord a written agreement from such sublessee assuming the obligations of Tenant under this Lease from and after the effective date of such sublease.

"**Renewal Notice**" has the meaning set forth in *Section 2.5*.

"**Renewal Notice Date**" has the meaning set forth in *Section 2.5*.

"**Renewal Term**" has the meaning set forth in *Section 2.5*.

"**Rent**" means Basic Rent, Expansion Basic Rent (if applicable), and all Additional Rent.

"**Rentable Square Feet**" means the standard for "Rentable Area" as promulgated by the Building Owners and Managers Association International and approved by the American National Standards Institute, Inc. on June 7, 1996 (reference number ANSI/BOMA Z65.1-1996).

"**Report**" has the meaning set forth in *Section 6.3(c)*.

"**Second Renewal Term**" has the meaning set forth in *Section 2.5*.

"**Second Stage Completion**" means that the Landlord's Original Work on the first floor and the second floor of the Original Building has been Substantially Completed and the first floor and second floor of the Original Building are ready for occupancy and can be occupied by Tenant.

"**Substantially Completed**" or "**Substantial Completion**" or "**Substantially Complete**" means that the applicable portion of the Premises is broom clean, free of construction tools and materials, and Landlord's Original Work has been completed according to the Approved Original Base

Building Plans and the Approved Original Leasehold Improvements Plans or Landlord's Expansion Work has been completed according to the Approved Expansion Base Building Plans and the Approved Expansion Leasehold Improvements Plans, as the case may be, with only minor punch list items that will not interfere to more than a minor extent with Tenant's use and enjoyment of the Premises remaining to be completed or corrected pursuant to the terms of this Lease; that an unconditional certificate of occupancy for the applicable portion of the Premises has been issued (unless the issuance thereof is conditioned upon any work or installations the responsibility of which is not included within Landlord's Original Work or Landlord's Expansion Work, as the case may be) and not suspended or revoked or amended in a manner that would prevent

Tenant from occupying the applicable portion of the Premises for the purposes for which they were designed; and that all utilities called for in the Approved Original Base Building Plans or Approved Expansion Base Building Plans, as the case may be, or the Approved Original Leasehold Improvements Plans or the Approved Expansion Leasehold Improvements Plans, as the case may be, are installed and operable with all hook-up, tap or similar fees paid.

"**Taxes**" means, subject to the terms of *Section 5.3* below, all ad valorem real and personal property taxes and assessments, special or otherwise, levied upon or with respect to the Premises, the personal property used in operating the Premises, and the rents and additional charges payable by Tenant according to this Lease, and imposed by any taxing authority having jurisdiction; and all taxes, levies and charges which may be assessed, levied or imposed in replacement of, or in addition to, all or any part of ad valorem real or personal property taxes or assessments as revenue sources, and which in whole or in part are measured or calculated by or based upon the Premises, the leasehold estate of Landlord or Tenant in and to the Premises, or the rents and other charges payable by Tenant according to this Lease. Taxes will not include any net income, franchise, inheritance or similar taxes of Landlord.

"**Tax Year**" means a 12-month period for which Taxes are assessed.

"**Tenant**" means ADS Alliance Data Systems, Inc., a Delaware corporation.

"**Tenant's Cost**" means the total cost of preparing the Original Leasehold Improvements Plans, obtaining all necessary permits for, and constructing and installing, the Original Leasehold Improvements in the Original Base Building, and providing any required services during construction of the Original Leasehold Improvements (such as electricity and other utilities and refuse removal). Landlord and Tenant agree that Tenant's Cost will include (a) the cost of general conditions and insurance, not to exceed three percent (3%) of the cost of the construction work, excluding soft costs, (b) overhead, not to exceed three percent (3%) of the cost of the construction work, excluding soft costs and the general conditions and insurance and (c) a general contractor's fee payable to Landlord in an amount equal to five percent (5%) of the construction work, excluding soft costs and overhead.

"**Tenant's Cost Proposal**" has the meaning set forth in *Section 3.9*.

"**Tenant's Expansion Cost Proposal**" has the meaning set forth in *Section 18(d)*.

"**Tenant Original Delay**" has the meaning set forth in *Section 3.7*.

"**Tenant Expansion Delay**" has the meaning set forth in *Section 18(g)*.

"**Tenant's Notice Address**" means,

for notices given before the Original Commencement Date:

5001 Spring Valley Road
Dallas, Texas 75244
Attention: Mr. Robert S. Murphy
Telecopy: (972) 960-5275
with a copy at the same time to:

4590 East Broad Street
Columbus, Ohio 43213
Attention: General Counsel
Telecopy: (614) 863-5965

and

Harriet Anne Tabb
Tabb & Associates
8333 Douglas Avenue
Suite 1250
Dallas, Texas 75225

and for notices given after the Original Commencement Date:

Tenant's address at the Premises, with a copy at the same time to:

4590 East Broad Street
Columbus, Ohio 43213
Attention: General Counsel

and

Harriet Anne Tabb
Tabb & Associates
8333 Douglas Avenue
Suite 1250
Dallas, Texas 75225

"**Tenant's Representative**" means Robert S. Murphy.

"**Term**" means the duration of this Lease, which will be approximately 11 years beginning on the Original Commencement Date and ending on the "**Expiration Date**" (as defined below), unless terminated earlier or extended further as provided in this Lease. The "**Expiration Date**" means (i) if the Original Commencement Date is the first day of a month, the 11-year anniversary of the day immediately preceding the Original Commencement Date; or (ii) if the Original Commencement Date is not the first day of a month, the 11-year anniversary of the last day of the month in which the Original Commencement Date occurs. The Term will also include any exercised Renewal Term.

"**Third Stage Completion**" means that all of Landlord's Original Work in the Original Building is Substantially Completed and all of the Original Building is ready for and can be occupied by Tenant.

1.2 **Exhibits.** The Exhibits listed below are attached to and incorporated in this Lease. In the event of any inconsistency between such Exhibits and the terms and provisions of this Lease, the terms and

provisions of the Exhibits will control, but the terms of this Lease may specifically modify the exhibits. The Exhibits to this Lease are:

Exhibit A	—	Legal Description of the Land
Exhibit B	—	Base Building Specifications (including Building Elevation, Site Plan, Floor Plan and Building Specifications)
Exhibit C	—	Base Building/Tenant Matrix
Exhibit D	—	Matters Affecting Landlord's Title
Exhibit E	—	Memorandum of Lease
Exhibit F	—	NDA
Exhibit G	—	Lease Guaranty
Exhibit H	—	2-Story Plan
Exhibit I	—	3-Story Plan
Exhibit J	—	Expansion Cost Summary
Exhibit K	—	Core Building Systems

2. **GRANT OF LEASE; RENEWAL OPTIONS**

2.1 **Demise.** Subject to the terms, covenants, conditions and provisions of this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises for the Term.

2.2 **Quiet Enjoyment.** Landlord covenants that Tenant, upon paying the Basic Rent and Additional Rent and performing all other obligations of Tenant under this Lease, will have quiet and peaceful possession of the Premises during the Term, and such possession will not be disturbed by Landlord or anyone claiming by, through or under Landlord. Upon Landlord's acquisition of the Land, Landlord will own the Land in fee simple, subject only to the matters set forth on *Exhibit D*. Landlord hereby represents and warrants that the execution of this Lease, the construction of the Original Building, and the construction of the Expansion Building will not violate the terms of any of the items described on *Exhibit D* and that Landlord has received or will receive all approvals necessary for the construction of the Original Building and the Expansion Building.

2.3 **Landlord and Tenant Covenants.** Landlord covenants to observe and perform all of the terms, covenants and conditions applicable to Landlord in this Lease. Tenant covenants to pay the Rent when due, and to observe and perform all of the terms, covenants and conditions applicable to Tenant in this Lease.

2.4 **Memorandum of Lease.** Promptly after execution of this Lease, Landlord and Tenant will execute and acknowledge a recordable memorandum of lease on the form attached as *Exhibit E*, which memorandum must be recorded immediately after the deed into Landlord (i.e., with no intervening document). After the occurrence of the Original Commencement Date, either party will, upon the other's request, execute and acknowledge a recordable memorandum setting forth the date on which the Original Commencement Date occurred and the date on which the Expiration Date is scheduled to occur.

2.5 **Tenant's Renewal Options.** Subject to the terms and provisions of this *Section 2.5*, Tenant, at its option, may extend the Original Term of this Lease for one five-year period at the end of the Original Term (the "**First Renewal Term**") and, if Tenant exercises its option with respect to the First Renewal Term, for an additional five-year period at the end of the First Renewal Term (the "**Second Renewal Term**"). The First Renewal Term and the Second Renewal Term are individually referred to herein as a "**Renewal Term**." To exercise each such option, Tenant must deliver written notice of the exercise thereof (a "**Renewal Notice**") to Landlord no later than nine months prior to the expiration of (i) the Original Term, in the case of Tenant's option with respect to the First Renewal Term, or (ii) the First Renewal Term, in the case of Tenant's option with respect to the Second Renewal Term. The dates by which Tenant is required to deliver its Renewal Notices will each be referred to hereinafter as a

"**Renewal Notice Date**." If Tenant fails to give its Renewal Notice with respect to either Renewal Term by the applicable Renewal Notice Date, such Renewal Notice Date will be extended until the first to occur of (A) the 15th day after Landlord gives Tenant notice that Tenant has failed to exercise its option with respect to the subject Renewal Term; or (B) the last day of the then-current Term. Landlord and Tenant agree that once Tenant has delivered a Renewal Notice, both parties will be responsible for their respective obligations under this Lease for the subject Renewal Term, regardless of the outcome of the Basic Rent determination for such Renewal Term as described below. During each Renewal Term, all of the terms and provisions of this Lease will apply, except that after the Second Renewal Term there will be no further right of renewal, and except that the Basic Rent payable for each month of the First Renewal Term will be 90% of the "**Fair Market Rent**" (as defined below), but in no event less than 100%, or more than 118%, of the monthly Basic Rent payable during the last year of the initial Term, and the Basic Rent payable for each month of the Second Renewal Term will be 90% of the Fair Market Rent, but in no event less than 100%, or more than 118%, of the monthly Basic Rent payable during the last year of the First Renewal Term. As used herein, "**Fair Market Rent**" will mean an amount of rent per month equal to the prevailing monthly rent then being obtained by landlords of premises comparable to the Land and the Base Building and the Expansion Base Building, if appropriate (*i.e.*, the Premises, but excluding the Original Leasehold Improvements, the Expansion Leasehold Improvements, and any subsequent Improvements made by Tenant) in the Dallas, Texas metropolitan area (or that such landlords would then be able to obtain) under leases of premises comparable to the Land and the Base Building and the Expansion Base Building, if appropriate, for terms comparable to the subject Renewal Term. Landlord and Tenant will, for a period of 30 days from and after the subject Renewal Notice Date, meet with each other and negotiate in good faith to agree upon the then-current Fair Market Rent (using the criteria set forth above) acceptable to both parties. If the parties are unable to agree upon the Fair Market Rent during such 30-day period, then, within seven days after such 30-day period expires, Landlord and Tenant will each appoint a certified MAI appraiser who has at least five years' full-time commercial appraisal experience in the Dallas, Texas market. If one party fails to so appoint an appraiser within such seven-day period, the determination of the Fair Market Rent by the one appraiser who was timely appointed by the other party will be binding on both parties. The appraisers will, within 30 days of their appointment, submit their determinations of the Fair Market Rent to both parties. If the difference between the two determinations is 10% or less of the higher appraisal, then the average between the two determinations will be the Fair Market Rent. If the difference between the two determinations is greater than 10% of the higher thereof, then within 10 days of the date the second determination is submitted to the parties, the two appraisers will designate a third appraiser who must also meet the qualifications described above and, further, must not have previously acted for either party in any capacity. The sole responsibility of the third appraiser will be to determine which of the determinations made by the first two appraisers is more accurate. The third appraiser will have no right to propose a middle ground or any modifications to either of the prior determinations made by the first appraisers. The third appraiser's choice will be submitted to the parties within 20 days after his or her selection. Such determination will bind both parties, and the determination of the Fair Market Rent made by one of the first two appraisers and selected by the third appraiser as the more accurate will be the Fair Market Rent. All appraisers will be instructed, in making their required determinations, to use the criteria as to the Fair Market Rent set forth above. Each party will pay the fees and expenses of the appraiser selected by it, and they will pay equal shares of the fees and expenses of the third appraiser. Tenant will have no right to extend the Term and a Renewal Notice will be ineffective if an Event of Default exists at the time such notice is given or at the commencement of the subject Renewal Term. Any termination of this Lease terminates all rights under this *Section 2.5*.

3. **CONSTRUCTION; DELIVERY AND ACCEPTANCE OF PREMISES**

3.1 **Landlord's Construction Obligations.** Subject to and in accordance with the provisions of this *Section 3*, Landlord will (i) at Landlord's sole cost and expense, design (consistent with the terms of

Exhibit B and *Exhibit C*), construct and install the Original Base Building on the Land in accordance with the Approved Original Base Building Plans (as defined below); and (ii) subject to the provisions of *Section 3.5*, construct and install the Original Leasehold Improvements in accordance with the Approved Original Leasehold Improvements Plans (as defined below). Landlord must perform the Landlord's Original Work in a good and workmanlike manner, using new materials, and in accordance with all applicable laws, ordinances, rules, and regulations, including, without limitation, ADA and all applicable environmental laws, as interpreted and enforced by the governmental bodies having jurisdiction thereof at the time of construction.

3.2 **Original Base Building Plans.** On or before January 15, 1998, Landlord delivered to Tenant preliminary plans and specifications for the Base Building (the "**Original Base Building Plans**"), which plans are described as follows: Shell Building Plans for Alliance Data Systems—Corporate Headquarters, Dallas, Texas (dated 1/15/98) and Specifications for Alliance Data Systems - Corporate Headquarters, Dallas, Texas (dated 1/14/98). Landlord acknowledges that Tenant responded to such delivery within five (5) business days. The specifications attached as *Exhibit B* are the Original Base Building Plans described above and although there are not yet any Approved Original Base Building Plans, neither have any Plan Approval Delays, Tenant Original Delays, or Deadline Extensions accrued during the period before lease execution. The revised preliminary Original Base Building Plans are due from Landlord on January 29, 1998. Within five (5) business days after Tenant receives such revised preliminary Original Base Building Plans, Tenant will either approve the same in writing or notify Landlord in writing of Tenant's objections to the revised preliminary Original Base Building Plans and how the revised preliminary Original Base Building Plans must be changed in order to make them acceptable to Tenant. Each day following the fifth (5th) business day after the revised preliminary Original Base Building Plans are submitted to Tenant until Tenant either approves them or delivers a notice of objections to Landlord will be a day of Tenant Original Delay (as that term is defined in *Section 3.7* hereof). Within five (5) business days after Landlord's receipt of Tenant's notice of objections, Landlord will cause its architect to prepare revised Original Base Building Plans according to such notice and submit the revised Original Base Building Plans to Tenant. In any review, Tenant cannot object to any aspect of the proposed Original Base Building Plans if (i) subject to the next-succeeding sentence, such objection would require material deviations from the terms of *Exhibit B and Exhibit C* attached to this Lease, or (ii) such objection was not included within any of the previous objections made by Tenant to the Original Base Building Plans, unless the item objected to was not included in any of the previous versions of the Original Base Building Plans or such item was so included, but has been affected by a subsequent change to the Original Base Building Plans. However, it is understood and agreed that Tenant has the right to select the following items, even if such items are not consistent with the guidelines detailed in the Base Building Specifications attached as *Exhibit B*, as long as such items are available to comply with the schedule of construction of the Original Building: exterior brick, glass, and metal frames; restroom finishes (including, without limitation, ceramic tile and toilet partitions); lobby finishes; elevator cab finishes; landscaping; and common area interior finishes, doors and hardware. Upon submittal to Tenant of the revised Original Base Building Plans, and upon submittal of any further revisions, the procedures described above will be repeated until Landlord and Tenant have reached agreement. Once they have reached agreement, Landlord must promptly prepare permit-ready Original Base Building Plans and submit them to Tenant for Tenant's approval. The only grounds upon which Tenant can object to such permit-ready Original Base Building Plans is that they materially differ from the final approved preliminary Original Base Building Plans. Tenant's failure to respond to Landlord's submission within five (5) business days after Landlord delivers such permit-ready Original Base Building Plans to Tenant constitutes Tenant's approval of such permit-ready Original Base Building Plans. The final permit-ready Original Base Building Plans, as approved by Landlord and Tenant, constitute the "**Approved Original Base Building Plans**" under this Lease. Each day following March 1, 1998, that the Approved Original Base Building Plans have not been approved by Landlord and Tenant for any reason other than Landlord's failure to perform or

respond as required by this *Section 3.2* shall constitute a "**Plan Approval Delay**". Each day that Landlord does not perform or respond as required by this *Section 3.2* will extend such March 1, 1998 deadline by one (1) day and will constitute a day of "**Deadline Extension**."

3.3 **Leasehold Improvement Plans.** On or before April 6, 1998 (extended by one (1) day for each day of Deadline Extension), Tenant will cause its architect to prepare and deliver to Landlord preliminary plans and specifications for the Original Leasehold Improvements (the "**Original Leasehold Improvements Plans**"). While these preliminary plans and specifications are not required to be permit-ready, they must show sufficient detail concerning all aspects of the Original Leasehold Improvements Plans so that making them permit-ready is only a matter of incorporating technical details. Each day following April 6, 1998 (extended by one (1) day for each day of Deadline Extension), until Tenant delivers the preliminary Original Leasehold Improvements Plans will be a day of Plan Approval Delay. Within five (5) business days after receipt of the preliminary Leasehold Improvement Plans, Landlord will either approve the same in writing or notify Tenant in writing of Landlord's objections to the preliminary Original Leasehold Improvements Plans and how the preliminary Original Leasehold Improvements Plans must be changed in order to make them acceptable to Landlord. Landlord can only object to the preliminary Original Leasehold Improvements Plans on the grounds that they would adversely affect the structural integrity of the Original Base Building or materially modify any portion of the Core Building Systems and cannot object in any subsequent review to any matter not raised in a preceding review, unless the item objected to was not included in any of the previous versions of the Original Leasehold Improvements Plans or such item was so included, but has been affected by a subsequent change to the Original Leasehold Improvements Plans. However, under all circumstances, Tenant has the right to select the following items as they apply to the Original Leasehold Improvements, but only as long as such items are available to comply with the schedule of construction of the Original Building: exterior brick, glass, and metal frames; restroom finishes (including, without limitation, ceramic tile and toilet partitions); lobby finishes; elevator cab finishes; landscaping; and common area interior finishes, doors and hardware. If Landlord fails to respond in the manner set forth above within five (5) business days after the date Tenant delivers the preliminary Original Leasehold Improvements Plans to Landlord or objects to the preliminary Original Leasehold Improvements Plans on any grounds other than those set forth in this *Section 3.3*, then Landlord will be conclusively deemed to have approved the preliminary Original Leasehold Improvements Plans. Within five (5) business days after Tenant's receipt of Landlord's notice of objections (if such objections meet the requirements set forth above), Tenant will cause its architect to prepare revised Original Leasehold Improvements Plans according to such notice and submit the revised Original Leasehold Improvements Plans to Landlord. Upon submittal to Landlord of the revised Original Leasehold Improvements Plans, and upon submittal of any further revisions, the procedures described above will be repeated until Landlord and Tenant have reached agreement. Once they have reached agreement, Tenant must promptly prepare permit-ready Original Leasehold Improvements Plans to Landlord for Landlord's approval. The only grounds upon which Landlord can object to such permit-ready Original Leasehold Improvements Plans is that they materially differ from the final approved Original Leasehold Improvements Plans. Landlord's failure to respond to Tenant's submissions within five (5) business days after Tenant delivers such permit-ready Original Leasehold Improvements Plans to Landlord constitutes Landlord's approval of such permit-ready Original Leasehold Improvements Plans. The permit-ready Original Leasehold Improvements Plans, as finally approved, are referred to in this Lease as the "**Approved Leasehold Improvements Plans**." Each day following April 20, 1998 (extended by one (1) day for each day of Deadline Extension), that the Approved Original Leasehold Improvements Plans have not been approved by Landlord and Tenant for any reason other than Landlord's failure to perform or respond as required by this *Section 3.3* shall constitute a Plan Approval Delay. Each day that Landlord does not perform or respond as required by this *Section 3.3* will constitute a day of Deadline Extension.

3.4 **Tenant's Cost Proposal.** At such time as Landlord and Tenant have approved the Approved Original Leasehold Improvements Plans (and in any event within fifteen (15) days thereafter), Landlord will (i) obtain at least three bids for each of the major trades that will be involved in the construction of the Original Leasehold Improvements (with Landlord agreeing to solicit and consider bids from subcontractors selected by Tenant), unless less than three qualified subcontractors exist for a given trade, in which case Landlord will obtain a bid from all qualified subcontractors of such trade; (ii) using the lowest qualified bid (which, in order to be qualified, must fully comply with all bid requirements, including but not limited to any time requirements specified) from each of the bids so received (unless (a) Landlord advises Tenant in writing within five (5) business days after the bids are received that Landlord believes the lowest bidder will be unable to perform the work upon which it has bid in a timely manner or to the quality required by Tenant, giving written evidence of its reasons for such belief, it being understood and agreed that if Landlord fails to so notify Tenant within such five (5) business day period, Landlord will be deemed to have waived any objection to any subcontractor, and (b) Tenant has consented to the use of a bidder other than the lowest bidder, which consent Tenant will not unreasonably withhold and which consent shall be deemed granted unless Tenant expressly denies such consent by written notice to Landlord within 3 business days after Landlord's notice of objection to the subcontractor), prepare a proposed budget for all items to be included in Tenant's Cost ("**Tenant's Cost Proposal**"); and (iii) submit copies of all bids and the Tenant's Cost Proposal to Tenant for Tenant's review and approval. Tenant, at Tenant's option, may either approve the Tenant's Cost Proposal in writing, or elect to eliminate or revise one or more items of Original Leasehold Improvements shown on the Original Leasehold Improvements Plans, or request additional bids so as to reduce the costs shown in the Tenant's Cost Proposal. Tenant may then approve in writing the reduced Tenant's Cost Proposal (based on revised Original Leasehold Improvements Plans (which will be deemed the Approved Original Leasehold Improvements Plans for all purposes under this Lease) prepared by Tenant's architect or revised bids, as the case may be). However, each business day following May 1, 1998 (extended by one (1) day for each day of Deadline Extension) until the day on which Landlord has received Tenant's written approval of the Tenant's Cost

Proposal will be a day of Plan Approval Delay. The Tenant's Cost Proposal, as finally approved, is referred to in this Lease as the "**Approved Tenant's Costs**." Each day that Landlord does not perform or respond as required by this *Section 3.4* will constitute a day of Deadline Extension.

3.5 **Original Change Orders.** Tenant's Representative may request and authorize changes in the Landlord's Original Work as long as such changes (i) are consistent with the scope of Landlord's Original Work, and (ii) do not affect the Original Base Building or any portion of the Core Building Systems. All other changes will be subject to Landlord's prior written approval, which approval Landlord cannot unreasonably withhold, delay, or condition. Within five (5) business days after Tenant requests a change in the Landlord's Original Work and prior to commencing any change, Landlord will prepare and deliver to Tenant, for Tenant's approval, a change order ("**Original Change Order**") identifying the total cost or savings of such change, which will include associated architectural, engineering and construction contractor's fees, and the total time that will be added to or subtracted from the construction schedule by such change. Once Landlord delivers an Original Change Order to Tenant for Tenant's approval, Tenant must either affirmatively approve or disapprove of the Original Change Order within three (3) business days following Tenant's receipt of the Original Change Order. In the event Tenant fails to respond within the three (3) business day period, then each day thereafter that Tenant fails to respond shall be a Tenant Original Delay. Alternatively, Landlord may deliver to Tenant, within the same five (5) business day period, an estimate of the time and costs to be expended in calculating the Original Change Order. In the event Tenant does not respond or fails to affirmatively authorize Landlord to proceed on the third (3rd) business day following Tenant's receipt of such estimate, then it shall be conclusively deemed that Tenant withdrew its request for any change in Landlord's Original Work. If Tenant authorizes Landlord to proceed with calculating the cost of the Original Change Order, then Tenant shall be responsible for all reasonable costs associated therewith

(and pay same to Landlord within 30 days following Landlord's written request) and any delay in connection with such calculation shall be a Tenant Original Delay, whether or not Tenant ultimately approves the Original Change Order.

3.6 **Delivery of Possession.** Landlord acknowledges and agrees that Tenant is terminating an existing lease on a specific date in reliance upon Landlord's commitment to deliver the Original Building to Tenant in accordance with the schedule set forth below, subject only to Plan Approval Delays (as defined in *Sections 3.2 and 3.3* above), Tenant Original Delays (as defined in *Section 3.7* below) and Permitted Original Force Majeure Delays (as defined in *Section 3.7* below), which exceed, when taken together, ten (10) days:

First Stage Completion:	August 31, 1998
Second Stage Completion:	September 10, 1998
Third Stage Completion:	September 20, 1998
Final Completion:	Thirty (30) days after Original Punch List delivery

Therefore, Landlord must deliver the Original Building to Tenant in accordance with the foregoing schedule as such scheduled dates have been delayed due to Plan Approval Delays, Tenant Original Delays and Permitted Original Force Majeure Delays which exceed, when taken together, ten (10) days only, it being understood and agreed that such dates cannot be extended for any reason other than Plan Approval Delays, Tenant Original Delays and Permitted Original Force Majeure Delays which exceed, when taken together, ten (10) days. If Landlord is unable to deliver possession of the Original Building in accordance with the foregoing schedule, as it may be extended, (i) the Original Commencement Date will be extended automatically by one day for each day of the period after the Third Stage Completion Date to the day on which Landlord tenders possession of the Original Building to Tenant with Landlord's Original Work Substantially Completed, less any portion of that period attributable to Tenant Original Delays; and (ii) Landlord will pay Tenant, as liquidated damages, an amount equal to $2,000.00 per day for each day after August 31, 1998 (as such date may be extended) that the First Stage Completion has not occurred; and (iii) if the First Stage Completion has occurred, Landlord will pay to Tenant, as liquidated damages, $2,000.00 per day for each day after September 10, 1998 (as such date may be extended) that the Second State Completion has not occurred; and (iv) Landlord will pay to Tenant, as liquidated damages, $4,000.00 per day for each day after September 20, 1998 (as such date may be extended) to the day upon which Landlord tenders possession of the Original Building to Tenant with Landlord's Original Work Substantially Completed; and (v) if Landlord has Substantially Completed the Original Building, Landlord will pay to Tenant $500.00 per day for each day after the thirtieth day after Tenant delivers the Original Punch List to Landlord that the Final Completion has not occurred; and (vi) if Landlord does not tender possession of the Original Building to Tenant with the Landlord's Original Work Substantially Completed on or before December 1, 1998 (plus any period of delay caused by Plan Approval Delays, Tenant Original Delays or Permitted Force Majeure Delay which exceed, when taken together, ten (10) days), Tenant will have the right to terminate this Lease by delivering written notice of termination to Landlord not more than 30 days after such deadline date. Upon a termination under clause (vi) above, each party will, upon the other's request, execute and deliver an agreement in recordable form containing a release and surrender of all right, title and interest in and to this Lease; neither Landlord nor Tenant will have any further obligations to each other, including, without limitation, any obligations to pay for work previously performed in the Original Building through the date of such termination except as set forth in this sentence; all improvements to the Premises will become and remain the property of Landlord; and Landlord will refund to Tenant any sums paid to Landlord by Tenant in connection with this Lease, including, without limitation, any payments to Landlord of portions of Tenant's Cost and pay to Tenant the amounts that have accrued under clauses (ii) through (v) above. Such postponement of the commencement of the Term, payment of liquidated damages and termination and refund right will be in full settlement of all claims that Tenant might otherwise have against Landlord by reason of

Landlord's failure to have complied with the schedule set forth above. If Landlord delivers possession of the Original Building with the Landlord's Original Work Substantially Completed prior to the dates specified in the schedule set forth above, then Tenant may either accept such delivery (in which case such date will be the Original Commencement Date hereunder) or may refuse to accept delivery until any date selected by Tenant that is no later than the dates specified in the schedule set forth above. Within sixty (60) days after the Original Commencement Date, Landlord will provide to Tenant a complete set of as-built drawings of Landlord's Original Work and manuals for all equipment incorporated into the Improvements as a part of Landlord's Original Work. Landlord and Tenant have sixty (60) days after Landlord notifies Tenant that the Original Building has been Substantially Completed in which to remeasure the Original Building , but after the expiration of such sixty (60) day period, neither Tenant nor Landlord may remeasure the Original Building Landlord and Tenant agree that provided the Original Building is otherwise Substantially Completed, a variance in the size of the Original Building (as the same may change due to any Original Change Order) by more or less than one percent (1%) shall be permitted and shall have no effect on the Original Building being Substantially Completed, nor on the calculation of the Original Basic Rent, Allowance or Financed Amount. In the absence of such remeasurement or the right to do so, it shall be conclusively deemed that the Original Building contains 114,419 Rentable Square Feet (subject to any approved revisions to the Approved Original Base Building Plans, with the final Rentable Square Feet as shown in the Approved Original Base Building Plans being sometimes referred to as the "**Approved Original Rentable Square Feet**"). If Tenant does timely elect to remeasure the Original Building, and the variance is greater than one percent (1%) but less than two percent (2%), the variance shall be permitted and have no affect on the Original Building being Substantially Completed, but (A) the Basic Rent (as provided in *Section 4.1*) will be adjusted to be $5.95 per Rentable Square Foot under clause (a) of *Section 4.1*, $11.98 per Rentable Square Foot under clause (b) of *Section 4.1* and $13.45 per Rentable Square Foot under clause (c) of *Section 4.1*, (B) the Allowance (as provided in *Section 3.10*) will be adjusted to be $20.00 per Rentable Square Foot and (C) the Financed Amount (as provided in *Section 3.10*) will be adjusted to be $5.00 per Rentable Square Foot. If the Original Building contains more than 102% of the Approved Original Rentable Square Feet, then the Allowance and Financed Amount will be adjusted based on the actual amount of square feet in the Original Building , but all other amounts will be calculated as if the Original Building contains 102% of the Approved Original Rentable Square Feet. If the Original Building contains less than 98% of the Approved Original Rentable Square Feet, then Landlord must make all alterations necessary to increase the size of the Original Building to at least 98% of the Approved Original Rentable Square Feet and the Original Building will be deemed to be not Substantially Complete. If, in such event, Tenant fails to terminate this Lease pursuant to *Section 3.6(vi)* above, then Tenant will be deemed to have accepted the size of the Original Building and the Original Building will be deemed to have been Substantially Complete on the day Landlord delivered the Original Building to Tenant with Landlord's Original Work (other than the area of the Original Building) Substantially Complete. In such event, the Allowance and Financed Amount will be calculated based on Approved Original Rentable Square Feet, but all other amounts will be calculated on the actual size of the Original Building

3.7 **Plan Approval Delays,Tenant Original Delays and Permitted Original Force Majeure DELAYS.** As provided in *Section 3.6*, the Term of this Lease (and therefore Tenant's obligation for the payment of Rent) will not commence until Landlord has Substantially Completed Landlord's Original Work; provided, however, that if Landlord is

delayed in causing Landlord's Original Work to be Substantially Completed as a result of: (a) any Plan Approval Delays described in *Sections 3.2 and 3.3*, (b) any Tenant Original Delays described in *Sections 3.2, 3.3, 3.4 and 3.5*, or any Original Change Orders or changes in any drawings, plans or specifications requested by Tenant or any other act or omission of Tenant or Tenant's architects, engineers, constructors or subcontractors, all of which will be deemed to be delays caused by Tenant (with each individual occurrence constituting a "**Tenant Original Delay**" and the cumulative occurrences constituting "**Tenant Original Delays**"), or (c) force majeure delays

with such force majeure delays being referred to in this Lease as "**Permitted Original Force Majeure Delays**"), then, if such delays exceed, in total, ten (10) days, the Original Commencement Date will only be extended under *Section 3.6* until the date on which Landlord would have Substantially Completed the performance of Landlord's Original Work but for such delays. The aggregate delays described in this *Section 3.7* will be reduced by the number of days deducted from the construction schedule on account of Original Change Orders. As a condition to claiming a Permitted Original Force Majeure Delay or a Tenant Original Delay, the day of delay must have otherwise been a day upon which Landlord intended to work on the item affected by the delay and Landlord must advise Tenant of the circumstances giving rise to the claim within ten (10) business days after they arise, the estimated cost that Tenant can pay at that time to effect any available remedy to eliminate or reduce such delay (for example, overtime work), and the cumulative total number of Permitted Original Force Majeure Delays, Tenant Original Delays, and Plan Approval Delays through the date of each event. If the number of Permitted Original Force Majeure Delays exceeds ninety (90) days then Tenant may terminate this Lease by written notice to Landlord at any time before the Original Commencement Date actually occurs and in such event Landlord must return to Tenant all amounts previously paid by Tenant and must pay Tenant $350,000.00, but will not be required to make any payment of liquidated damages under *Section 3.6* of this Lease (and if Landlord has done so, Landlord will be permitted to offset the amount so paid against the $350,000.00 due to Tenant). If, under such circumstances, Tenant does not terminate this Lease as set forth above, then the maximum amount Landlord would be required to pay to Tenant as liquidated damages under *Section 3.6* above would be $350,000.00.

3.8 **Original Punch List.** Tenant's taking possession of any portion of the Original Building will be conclusive evidence that such portion of the Original Building was in good order and satisfactory condition, and that all of Landlord's Original Work in or to such portion of the Original Building was satisfactorily completed, when Tenant took possession, except as to any patent defects or uncompleted items identified on a punch list (the "**Original Punch List**") prepared by Tenant's Representative after an inspection of the Original Building by both Tenant's Representative and Landlord's Representative (unless Landlord's Representative fails to attend an inspection scheduled by Tenant's Representative, with Tenant acknowledging that Tenant's Representative must cooperate with Landlord's Representative in attempting to establish a mutually-acceptable date and time of inspection) made within thirty (30) days after Tenant takes possession, and except as to any latent defects in Landlord's Original Work. Landlord will not be responsible for any items of damage caused by Tenant, its agents, independent contractors or suppliers, except that in connection with Tenant's "phased" move-in to the Original Building, Landlord must repair damage caused by Tenant as part of its move-in and cannot claim such damage and repair constitutes any form of permitted delay, unless caused by Tenant's gross negligence or wilful misconduct. No promises to construct, alter, remodel or improve the Original Building , and no representations concerning the condition of the Original Building, have been made by Landlord to Tenant other than as may be expressly stated in this Lease.

3.9 **Representatives.** Landlord appoints Landlord's Representative to act for Landlord in all matters covered by this *Section 3*. Tenant appoints Tenant's Representative to act for Tenant in all matters covered by this *Section 3*. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this *Section 3* will be made to Landlord's Representative or Tenant's Representative, as the case may be. Tenant will not make any inquiries of or requests to, and will not give any instructions or authorizations to, any other employee or agent of Landlord, including Landlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this *Section 3*. Either party may change its representative at any time by three days' prior written notice to the other party.

3.10 **Payment of Tenant's Cost.** Landlord and Tenant acknowledge that the Basic Rent has been computed based on Landlord's allowance of $2,288,380.00 (the "**Allowance**") towards the cost of the Original Leasehold Improvements. To the extent the Approved Tenant's Costs (as increased or

decreased by Original Change Orders): (A) are less than the Allowance, the "savings" will be credited to the next installment(s) of Original Basic Rent due after such determination, (B) exceed the Allowance, Tenant will pay such excess to Landlord as herein required. Any such excess sums owing by Tenant to Landlord pursuant to this *Section 3.10* (up to a maximum of an amount equal to $572,095.00 (the "**Financed Amount**") shall be paid by Tenant to Landlord in monthly installments, amortized over the remaining months of the initial 11-year term of this Lease at a rate of nine percent (9%) per annum, with the Original Basic Rent to be increased by an amount equal to such amortized installments. Landlord and Tenant will, upon request of the other, promptly enter into an amendment to this Lease to evidence the increase in the Original Basic Rent. Any such excess sums owing by Tenant to Landlord pursuant to this *Section 3.10* in excess of the Financed Amount shall be paid by Tenant to Landlord within thirty (30) days following the determination of the sum due to Landlord by Tenant and delivery to Tenant of supporting documentation of the entire amount paid. Tenant will own all of the Original Leasehold Improvements until the end of the Term, at which time the Original Leasehold Improvements will become Landlord's property in accordance with *Section 14.1*. During the Term, Tenant may, in its sole discretion, remove or replace any of the personal property, equipment, trade fixtures or movable partitions owned by Tenant and placed or installed in the Premises at Tenant's expense. Subject to *Section 10.1*, Tenant may also remove or replace the Original Leasehold Improvements. Landlord warrants that the Original Base Building and Original Leasehold Improvements will be free of all defects in design, materials or construction for a period of one year from the Original Commencement Date.

3.11 **Reasonableness and Good Faith Standard.** Landlord and Tenant acknowledge that they must work together cooperatively in order to design the Original Building and therefore agree to act reasonably and in good faith in such design process.

4. **RENT**

4.1 **Basic Rent and Original Basic Rent.** Commencing on the Original Commencement Date and then throughout the Term, Tenant agrees to pay Landlord Basic Rent according to the following provisions. Basic Rent throughout the Term will be payable in monthly installments, in advance, on or before the first day of each and every month during the Term. The Original Basic Rent is in the amount of (a) during the portion of the Term beginning on the Original Commencement Date and ending on the first anniversary of the last day of the month preceding the month in which the Original Commencement Date occurs, $56,732.75 per month; (b) during the portion of the Term beginning on the second anniversary of the first day of the month in which the Original Commencement Date occurs and ending on the last day of the month preceding the sixth anniversary of the Original Commencement Date, $114,228.30 per month; (c) during the portion of the Term beginning on the sixth anniversary of the first day of the month in which the Original Commencement Date occurs to the Expiration Date of the initial Term, $128,244.62 per month; and (d) during each Renewal Term with respect to which Tenant exercises its option, the amount per month determined pursuant to *Section 2.5*. However, if the Term commences on other than the first day of a month or ends on other than the last day of a month, Basic Rent for such month will be appropriately prorated.

4.2 **Net Lease.** Neither Landlord nor Tenant will be required to pay any costs or expenses or provide any services in connection with the Premises except as expressly provided in this Lease.

4.3 **Terms of Payment.** All Rent will be paid to Landlord in lawful money of the United States of America, at Landlord's Rent Address or to such other person or at such other place as Landlord may from time to time designate in writing, without notice or demand and without right of deduction, abatement or setoff, except as otherwise expressly provided in this Lease. Tenant's covenants to pay Basic Rent and Additional Rent are independent of any other covenant, condition, provision or agreement contained in this Lease; provided, however, that the foregoing statement cannot be deemed in any way to limit Tenant's rights and remedies set forth elsewhere in this Lease.

4.4 **Late Payments.** Any payment of Rent which is not received within five days after it is due will be subject to a late charge equal to 5% of the unpaid payment, or $100.00, whichever is greater. This amount is in compensation of Landlord's additional cost of processing late payments. In addition, any Rent which is not paid within five days after it is due will accrue interest at the Interest Rate from the date on which it was due until the date on which it is paid in full with accrued interest.

4.5 **Right to Accept Payments.** No receipt by Landlord of an amount less than Tenant's full amount due will be deemed to be other than payment "on account," nor will any endorsement or statement on any check or any accompanying letter effect or evidence an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any right of Landlord. No payments by Tenant to Landlord after the expiration or other termination of the Term, or after the giving of any notice (other than a demand for payment of money) by Landlord to Tenant, will reinstate, continue or extend the Term or make ineffective any notice given to Tenant prior to such payment. After notice or commencement of a suit, or after final judgment granting Landlord possession of the Premises, Landlord may receive and collect any sums of Rent due under this Lease, and such receipt will not void any notice or in any manner affect any pending suit or any judgment obtained. Any amounts received by Landlord may be allocated to any specific amounts due from Tenant to Landlord as Landlord determines.

5. **TAXES**

5.1 **Payment of Taxes.** Except as provided in *Section 5.3 and Section 5.4* below, Tenant will pay before delinquency, directly to the taxing authority, all Taxes which accrue during or are attributable to any part of the Term. Within 10 days after Landlord's written request, Tenant will provide Landlord with evidence of Tenant's payment of Taxes for the most recent Tax Year for which Taxes have been paid. Landlord will use reasonable efforts to have the real property tax notices and bills issued directly to Tenant, but if Landlord is unable to do so, Landlord will promptly (and in any event with fifteen (15) days after Landlord's receipt thereof) forward all such notices and bills directly to the address to which Landlord is then required to send notices to Tenant.

5.2 **Proration at Beginning and End of Term.** If the Term begins on other than the first day of a Tax Year or if the Term expires or otherwise terminates on other than the last day of a Tax Year, Taxes for the Tax Year in which the Term begins or ends, as the case may be, will be prorated between Landlord and Tenant, based on the most recent levy and most recent assessment. Such proration will be subsequently adjusted when the actual bills become available for Taxes for the Tax Year for which Taxes were prorated. The parties' obligations under this *Section 5* will survive the expiration of the Term or other termination of this Lease.

5.3 **Special Assessments.** Tenant will pay, as Taxes, all special assessments and other like impositions; provided, however, that Tenant may pay in installments any such special assessments or like impositions that may be so paid according to applicable Laws and, in such event, Tenant will only be required to pay those installments of any such assessments or impositions that are assessed or imposed for periods of time within the Term and with proration, as provided above, of any installment due period at the beginning or end of the Term that covers a period of time that includes both a portion of the Term and an additional period either before or after the Term. The Premises are not now, and Landlord will take no action to cause or permit the Premises on the Original Commencement Date to be, located in a special improvement district or otherwise subject to special assessments. Landlord will not consent to the inclusion of the Premises in a special improvement district or other district that would subject the Premises to special assessments without Tenant's prior written approval and without giving Tenant the right and sufficient notice to allow Tenant to object to the inclusion in Landlord's name and on Landlord's behalf.

5.4 **Tax Contests.** Tenant will have the right to contest any Taxes payable by Tenant; provided, however, that Tenant will make timely payment of the contested Taxes notwithstanding the pendency of

any such contest unless applicable Laws permit the withholding of payment without delinquency, in which case Tenant may withhold payment of the contested Taxes until such time as payment thereof (or of such Taxes as the same may be reduced by such contest) is required to be made by applicable Laws in order to avoid delinquency. Tenant will notify Landlord within five business days of the commencement of any such contest. So long as Tenant complies with the terms of this *Section 5.4*, Tenant will have the right, in connection with any such contest, at its sole expense, to institute and prosecute, in good faith and with due diligence and in Landlord's name if necessary, any appropriate proceedings, and Landlord will, at Tenant's expense, fully cooperate with Tenant's efforts to contest any such Taxes or special assessments.

6. **USE, OCCUPANCY AND COMPLIANCE**

6.1 **Use.** Tenant may use the Premises for any and all uses and purposes that are from time to time permitted by Laws. Tenant will not keep anything on or about the Premises which would invalidate any insurance policy required to be carried on the Premises by Tenant pursuant to this Lease. Tenant will not cause or permit to exist any public or private nuisance on or about the Premises.

6.2 **Compliance.** On the Original Commencement Date, the Premises will comply with all Laws applicable to their use and occupancy for the purposes for which they were designed. Tenant will comply with all Laws applicable to the use and occupancy of the Premises during the Term and will keep and maintain the Premises in compliance with all applicable Laws. Tenant will have the right, however, to contest or challenge by appropriate proceedings the enforceability of any Law or its applicability to the Premises or the use or occupancy thereof by Tenant so long as Tenant diligently prosecutes the contest or challenge to completion and, in the event Tenant loses the contest or challenge, thereafter abides by and conforms to such Law. In the event of Tenant's challenge or contest of such Law, Tenant may elect not to comply with such Law during such challenge or contest; provided, however, that such election not to comply will not result in any material risk of forfeiture of Landlord's interest in the Premises. Tenant will indemnify and hold Landlord harmless from and against all claims, damages or judgments resulting from any such election not to comply.

6.3 **Hazardous Substances.**

(a) **Tenant's Covenants.** Tenant will not allow any Hazardous Substance to be located on the Premises and will not conduct or authorize the use, generation, transportation, storage, treatment or disposal at the Premises of any Hazardous Substance other than in quantities incidental to the conduct of Tenant's business in the Premises and in compliance with Environmental Laws; provided, however, nothing herein contained will permit Tenant to allow any so-called "acutely hazardous," "ultra-hazardous," "imminently hazardous chemical substance or mixture" or comparable Hazardous Substance to be located on or about the Premises. If the presence, release, threat of release, placement on or in the Premises or the generation, transportation, storage, treatment or disposal at the Premises of any Hazardous Substance as a result of Tenant's use or occupancy of the Premises (i) gives rise to liability (including, but not limited to, a response action, remedial action or removal action) under Environmental Laws; (ii) causes a significant public health effect; or (iii) pollutes or threatens to pollute the environment, Tenant will promptly take any and all remedial and removal action necessary to clean up the Premises and mitigate exposure to liability arising from the Hazardous Substance, whether or not required by Laws.

(b) **Tenant's Indemnity.** Tenant will indemnify, defend and hold Landlord harmless from and against all damages, costs, losses, expenses (including, without limitation, actual attorneys' fees and engineering fees) arising from or attributable to (i) the existence of any Hazardous Substance at the Premises as a result of the acts of Tenant or its agents, employees or contractors or Tenant's use and occupancy of the Premises, and (ii) any breach by Tenant of any of its covenants contained in this *Section 6.3*.

(c) **Landlord's Representation and Indemnity.** Landlord has delivered to Tenant copies of all studies in Landlord's possession concerning the presence of Hazardous Substances on the Premises and will promptly furnish Tenant with a copy of any additional such study that Landlord obtains on or within two months after the Original

Commencement Date. Landlord represents to Tenant that, to Landlord's current actual knowledge (without any investigation other than as described in Phase I Environmental Site Assessment; 10.32 Acres of Undeveloped Land, Waterview Parkway, Dallas, Texas, Terracon Project No. 54975133, December 31, 1997, Prepared for Opus South Corporation, 12225 Greenville Avenue, #900, Dallas, Texas 75243 and prepared by Terracon Environmental, Inc., Dallas, Texas (the "**Report**") and subject to all matters reflected or referenced thereon), there are no Hazardous Substances present on the Premises as of the date of this Lease in any manner or quantity that violates any Environmental Laws. Landlord will indemnify, defend and hold Tenant harmless from and against all damages, costs, losses, expenses (including, without limitation, actual attorneys' fees and engineering fees) arising from or attributable to (i) the existence of any Hazardous Substance at the Premises as a result of the acts of Landlord or its agents, employees or contractors, and (ii) any breach by Landlord of its representation contained in this *Section 6.3*.

(d) **Survival.** The parties' obligations under this *Section 6.3* will survive the expiration of the Term or other termination of this Lease.

6.4 **Americans With Disabilities Act.** Landlord will be obligated to design and construct the Original Base Building and, if applicable, the Expansion Base Building in accordance with the ADA and Texas Accessibility Standards and if Landlord fails to do so, Landlord will have the continuing obligation to cause the Original Base Building and, if applicable, the Expansion Base Building to meet such requirement. Subject to the terms of the preceding sentence, Tenant will, at its expense, cause the Premises and the operation of any business within the Premises to comply with the ADA, and if Tenant fails to maintain the Premises in compliance with the ADA, Landlord will have the right, but not the obligation, at Tenant's expense, to enter the Premises and cause the Premises to comply with the ADA; and Tenant will indemnify, defend and hold Landlord harmless from and against any and all costs, claims and liabilities, including, without limitation, attorneys' fees and court costs, arising from or related to Tenant's failure to maintain the Premises in compliance with the ADA; provided, however, Landlord will cause the Original Base Building and, if applicable, the Expansion Base Building to be designed and constructed in accordance with the "ADA Guidelines for Buildings and Facilities" attached as "Appendix A" to the rules and regulations implementing the ADA, as the same are interpreted as of the date Landlord submits its complete application for a building permit for such construction, and provided, further, that any such obligation of Landlord will be subject to and based upon Tenant's representations concerning Tenant's status as a "Public Accommodation" and concerning the location of any "area of primary function." Without limiting the generality of the foregoing, if work is performed by, through or under Tenant after the Original Commencement Date, Tenant will, at Tenant's expense, cause such work to be designed and constructed in compliance with the ADA, and Tenant will be responsible for (i) the cost of any work required as a result of (A) Tenant or an assignee or subtenant being deemed a "Public Accommodation" or the Premises being deemed a "Place of Public Accommodation," or (B) such work being deemed to affect an "Area of Primary Function" (as such terms are defined in the ADA); and (ii) the cost of the installation or implementation of any "Auxiliary Aid" required under the ADA as a result of the operation of any business within the Premises.

6.5 **Signs.** Tenant may erect, maintain or replace from time to time upon the Premises at Tenant's cost all signs that Tenant deems appropriate to the conduct of its business, including, without limitation, pylon signs, monument signs, roof signs, banners, signage on the exterior of the Building or glass surfaces of the windows and doors of the Building, provided that all of such signs and signage are in

compliance with applicable Laws. Landlord will, at Tenant's expense, cooperate and assist Tenant in obtaining any permits for signage, including variances from Laws.

7. **UTILITIES**

7.1 **Payment; Interruption of Services.** Landlord will cause all utilities described in the Approved Original Base Building Plans and Approved Original Leasehold Improvements Plans and, if applicable, the Approved Expansion Base Building Plans and the Approved Expansion Leasehold Improvements Plans to be brought to the applicable portion of the Premises and hooked-up, and will pay the applicable tap, hook-up or similar fees. Tenant will pay for all electricity, gas, water, sewer or other utility service provided to the Premises from and after the Original Commencement Date. Landlord will not be liable in damages or otherwise, nor will there be an abatement of Rent, if the furnishing by any supplier of any utility service or other service to the Premises is interrupted or impaired by fire, accident, riot, strike, act of God, the making of necessary repairs or improvements, or by any causes beyond Landlord's reasonable control.

7.2 **HVAC.** From and after the Original Commencement Date, Tenant will pay the cost for all heating, air conditioning and ventilation service provided to the Premises, including the cost of maintenance, repair and replacement of same. Tenant may maintain a preventative maintenance contract on the HVAC units in the Premises, which contract will provide for periodic maintenance in accordance with the manufacturer's specifications, or Tenant may perform such preventative maintenance itself. In the event Tenant fails to maintain such preventative maintenance contract or to perform such preventative maintenance itself, Landlord, at its option and after giving Tenant notice and an opportunity to cure pursuant to *Section 15.2*, may arrange for such a preventative maintenance contract for the HVAC units, in which event the cost of such preventative HVAC maintenance will be billed directly to Tenant and will be paid within 10 days of receipt of invoice therefor.

8. **REPAIRS AND MAINTENANCE**

8.1 **Tenant's Obligations.** Tenant will, at its expense (a) maintain, replace and repair all of the Premises (including, without limitation, all non-structural components of the walls, all flooring, ceilings and fixtures, all windows, window fittings and sashes, all interior and exterior doors, and all paved and landscaped areas on the Land), except those portions the maintenance of which is expressly Landlord's responsibility pursuant to *Section 8.2*, in a good, clean, safe, orderly and sanitary condition, ordinary wear and tear excepted; (b) keep the Premises free of insects, rodents, vermin and other pests; (c) repair and maintain all heating, ventilating and air conditioning equipment that serves the Premises and all utility systems, lines, conduits and appurtenances thereto that serve the Premises; (d) keep any garbage, trash, rubbish or refuse removed on a regular basis and temporarily stored on the Premises in accordance with local Laws; and (e) provide such janitorial services to the Building and such snow and ice removal from the paved areas on the Land as may be required by Laws or otherwise necessary for the operation of Tenant's business.

8.2 **Landlord's Obligations.** Landlord will, at its expense (a) maintain, replace and repair the roof and structural elements of the Building (including the foundations, structural components of the walls and structural columns and beams) and all utility lines and facilities serving the Premises that extend beyond the exterior walls of the Building in good condition, ordinary wear and tear excepted; and (b) make all capital repairs and replacements (but not ordinary maintenance and repairs) required to keep the driveways and parking areas on the Land in good condition, ordinary wear and tear excepted (including such resurfacing thereof as may from time to time be necessary and any restriping required in connection with such resurfacing); provided however, that subject to the penultimate sentence of *Section 3.8*, if the need for any such repair is caused by (i) Tenant or anyone claiming by or through Tenant; or (ii) the installation or removal of Tenant's property, regardless of fault or by whom such damage is caused (unless caused by Landlord, its agents, contractors, servants, employees or licensees), then, in any such case, subject to *Section 9.4*, Tenant agrees to reimburse Landlord for all costs and

expenses incurred by Landlord with respect to such repair. Landlord will commence repairs it is required to do hereunder as soon as reasonably practicable after receiving written notice from Tenant of the necessity of such repairs.

8.3 **Landlord's Right of Entry.** For purposes of performing Landlord's obligations under *Section 8.2*, or performing any of Tenant's obligations under *Section 8.1* that Tenant fails to perform within the cure period provided in *Section 15.2*, or to inspect the Premises, Landlord may enter the Premises upon reasonable prior notice to Tenant (except in cases of actual or suspected emergency, in which case no prior notice will be required) without liability to Tenant for any loss or damage incurred as a result of such entry (excluding, subject to *Section 9.4*, any damage to Tenant's personal property or equipment caused by the negligence of Landlord or its agents, employees or contractors), provided that Landlord will take reasonable steps in connection with such entry to minimize any disruption to Tenant's business or its use of the Premises.

9. **INSURANCE, WAIVERS AND INDEMNITY**

9.1 **Property Insurance.** Landlord will throughout the Term, provide and maintain a "special form" insurance policy (including fire and standard extended coverage perils, leakage from fire protective devices and other water damage) covering loss or damage to the Improvements (including, without limitation, the Original Base Building, the Original Leasehold Improvements, the Expansion Base Building, and the Expansion Leasehold Improvements, and any alterations made to the Premises from time to time) on a full replacement cost basis, excluding excavations, footings and foundations and providing for a deductible of no greater than $10,000.00 (unless Landlord can obtain a smaller deductible and Tenant approves of such deductible and the increased cost in such insurance arising from such smaller deductible). Tenant agrees to pay Landlord, as Additional Rent, Landlord's cost of maintaining such insurance, said payments to be made to Landlord within ten (10) days after Landlord presents Tenant a statement setting forth the amount due, together with reasonable supporting documentation. In the event of a casualty, Tenant shall pay to Landlord the lesser of the amount of the deductible or the full amount of the loss in the case of a loss in an amount less than the deductible, subject in both cases, to the $10,000.00 limit set forth above, in respect of any insured loss, which payment shall be treated in the same manner as insurance proceeds. Tenant will provide and maintain throughout the Term, at its expense, such property insurance covering Tenant's machinery, equipment, furniture, fixtures, personal property (including also property under the care, custody, or control of Tenant) and business interests which may be located in, upon or about the Premises in such amounts as Tenant may from time to time deem prudent. All of such property policies will permit Tenant's waiver of claims against Landlord under *Section 9.4* for matters covered thereby.

9.2 **Liability and Other Insurance.** Tenant will throughout the Term, at its expense as Additional Rent, provide and maintain the following insurance, in the amounts specified below:

(a) bodily injury and property damage liability insurance, with a combined single occurrence limit of not less than $5,000,000.00; such insurance will be on a commercial general liability form including, without limitation, personal injury and assumed contractual liability for the performance by Tenant of the indemnity agreements set forth in *Section 9.5*; Landlord and its mortgagee will be named as an additional insureds in the policy providing such liability insurance, which will include cross liability and severability of interests clauses or endorsements; unless otherwise approved in writing by Landlord, such policy will have a deductible of $5,000.00 or less and will not have a retention or self-insurance provision;

(b) worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the State of Texas and employers' liability insurance in the limit of $100,000/500,000/100,000 (provided that Tenant may self-insure this obligation pursuant to a program of self-insurance); and

(c) if Tenant operates owned, hired or nonowned vehicles on the Premises, comprehensive automobile liability will be carried at a limit of liability not less than $1,000,000.00 combined bodily injury and property damage.

9.3 **General Insurance Requirements.** All insurance required to be maintained by Landlord and Tenant pursuant to *Sections 9.1 and 9.2* will be maintained with insurors licensed to do business in the State of Texas and having a Best's Key Rating of at least A-:XII. Tenant and Landlord will each file with the other, on or before the Original Commencement Date and at least 10 days before the expiration date of expiring policies, such copies of either current policies or certificates as may be reasonably required to establish that the insurance coverage required by *Sections 9.1 and 9.2* is in effect from time to time and that the insuror(s) have agreed to give the other party at least 30 days notice prior to any cancellation of, or material modification to, the required coverage. Landlord and Tenant will cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery. All commercial general liability and property policies maintained by Tenant will be written as primary policies, not contributing with and not supplemental to any coverage that Landlord may carry.

9.4 **Waivers.** Except to the extent caused by the willful or negligent act or omission or breach of this Lease by Landlord, its agents or employees or anyone else for whom Landlord is legally responsible, Landlord and its Affiliates will not be liable or in any way responsible for, and Tenant waives all claims against Landlord and its Affiliates for, any loss, injury or damage suffered by Tenant or others relating to (a) loss or theft of, or damage to, property of Tenant or others; (b) injury or damage to persons or property resulting from fire, explosion, falling plaster, escaping steam or gas, electricity, water, rain or snow, or leaks from any part of the Improvements or from any pipes, appliances or plumbing, or from dampness; or (c) damage caused by persons on or about the Premises, or caused by the public or by construction of any private or public work. Provided that Landlord maintains the insurance required to be maintained by Landlord pursuant to *Section 9.1*, Landlord and its Affiliates will not be liable or in any way responsible to Tenant for, and Tenant waives all claims against Landlord and its Affiliates for, any loss, injury or damage that is insured under *Section 9.1* or required to be insured by Tenant under *Section 9.1*. Provided that Tenant maintains the insurance required to be maintained by Tenant pursuant to *Section 9.1*, Tenant and its Affiliates will not be liable or in any way responsible to Landlord for, and Landlord waives all claims against Tenant and its Affiliates for, any loss, injury or damage that is insured by Tenant under *Section 9.1*.

9.5 **Indemnity.** Except to the extent caused by the willful or negligent act or omission or breach of this Lease by Landlord, its agents or employees or anyone else for whom Landlord is legally responsible, Tenant will indemnify and hold Landlord harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees) due to or arising out of any accident or occurrence on or about the Premises during the Term (including, without limitation, accidents or occurrences resulting in injury, death, property damage or theft) or any willful or negligent act or omission of or breach of this Lease by Tenant or anyone for whom Tenant is legally responsible.

10. **ALTERATIONS; MECHANICS' LIENS**

10.1 **Alterations.** Tenant will not make any modifications, improvements, alterations, additions or installations in or to the Premises that affect the Original Building's structural systems, the Expansion Building's structural systems, or the Core Building Systems, or that will cost more than $50,000.00 per building, without Landlord's prior written consent, which consent will not be unreasonably withheld. Tenant will notify Landlord prior to making any modifications, improvements, alterations, additions or installations in or to the Premises (referred to in this section as the "work"), regardless of whether Landlord's consent is required in connection with such work. Along with any request for Landlord's consent and at least 15 days before commencement of any work or delivery of any materials to be used

in any work to the Premises, Tenant will furnish Landlord with plans and specifications, estimated commencement and completion dates, the name and address of Tenant's general contractor, and the necessary permits and licenses. Landlord will have the right to post notices of non-responsibility or similar notices on the Premises in order to protect the Premises against any liens resulting from such work. Tenant agrees to indemnify, defend and hold Landlord harmless from any and all claims and liabilities of any kind and description which may arise out of or be connected in any way with such work. Tenant will pay the cost of all such work, and also the cost of painting, restoring or repairing the Premises occasioned by such work. Upon completion of the work, Tenant will furnish Landlord with contractor's affidavits that include full and final waivers of liens and receipts for all amounts due for labor and materials. In the case of any work that required Landlord's consent, Tenant will also provide Landlord with as-built plans and specifications of the Premises as altered by such work. All work will comply with all insurance requirements and all applicable Laws (including, without limitation, the ADA) and will be constructed in a good and workmanlike manner, using materials of first-class quality and free and clear of all liens or claims therefor. Tenant will permit Landlord to inspect construction operations in connection with any such work. Landlord's approval of any plans for any modifications, improvements, alterations, additions or installations proposed by Tenant will not constitute a representation that the same will comply with Laws or be fit for any particular purpose; such approval will merely constitute Landlord's consent to construct or install the same in the Premises.

10.2 **Mechanics' Liens.** Tenant will not permit any mechanic's lien or other lien to be filed against the Premises by reason of any work performed by or for, or material furnished to, Tenant (including, without limitation, any work undertaken by Tenant pursuant to *Section 10.1*). If any such lien is filed at any time against the Premises, Tenant will cause the same to be discharged of record (including by bonding) within 10 days after the date of filing the same. If Tenant fails to discharge any such lien within such period, then, in addition to any other right or remedy of Landlord, after 10 days prior written notice to Tenant, Landlord may, but will not be obligated to, discharge the same by paying to the

claimant the amount claimed to be due or by procuring the discharge of such lien as to the Premises by deposit in the court having jurisdiction of such lien, the foreclosure thereof or other proceedings with respect thereto, of a cash sum sufficient to secure the discharge of the same, or by the deposit of a bond or other security with such court sufficient in form, content and amount to procure the discharge of such lien, or in such other manner as is now or may in the future be provided by present or future Laws for the discharge of such lien as a lien against the Premises. Any amount paid by Landlord, or the value of any deposit so made by Landlord, together with all costs, fees and expenses in connection therewith (including reasonable attorney's fees of Landlord), together with interest thereon at the Interest Rate, will be repaid by Tenant to Landlord on demand by Landlord and if unpaid may be treated as Additional Rent. Notwithstanding the foregoing, if Tenant desires to contest any such lien, Tenant may do so provided that, within 10 days after Tenant learns of the filing thereof, Tenant notifies Landlord of Tenant's intention to do so and, until such time as Tenant causes such lien to be removed by the payment thereof or by bonding over such lien in the manner provided by law or posting with Landlord such security as Landlord may reasonably request to provide funds with which Landlord may discharge such lien in the event Tenant is unsuccessful in its contest and then fails to discharge such lien. Tenant will indemnify and defend Landlord against and save Landlord and te Premises harmless from all losses, costs, damages, expenses, liabilities, suits, penalties, claims, demands and obligations, including, without limitation, reasonable attorney's fees resulting from the assertion, filing, foreclosure or other legal proceedings with respect to any such mechanic's lien or other lien.

11. **ASSIGNMENT AND SUBLETTING**

11.1 **Notice and Consent.** Tenant may, upon notice to Landlord but without obtaining Landlord's consent, assign this Lease or sublet all or any portion of the Premises to any of Tenant's Affiliates. Tenant will not, however, assign this Lease or sublet all or any portion of the Premises to any assignee

or subtenant that is not one of Tenant's Affiliates without first obtaining Landlord's written consent, which consent will not be unreasonably withheld, conditioned or delayed. It is not reasonable for Landlord to withhold its consent to an otherwise acceptable assignee or sublessee on the grounds that Tenant and its guarantor would or could be released from liability as a result of such assignment or sublease or on the grounds that such assignee or sublessee would be entitled to exercise the expansion right set forth in *Section 18* below, it being understood and agreed that Landlord's recapture remedy described below is sufficient. If Tenant desires to effect an assignment or subletting that will require Landlord's consent, Tenant will seek such written consent of Landlord by a written request therefor, setting forth the date (which will not be less than 30 days after date of Tenant's notice) on which Tenant desires to assign this Lease or to sublet all or any portion of the Premises, the name and address of the proposed assignee or sublessee and its proposed use of the Premises, copies of the proposed assignee's or subtenant's financial statements (or, if not available, any other information in Tenant's possession concerning the proposed assignee's or subtenant's financial condition and business), and the proposed form of assignment or sublease. If Landlord does not withhold its consent in writing, stating the reason for withholding such consent, within twenty (20) days after Tenant submits the documentation required by the terms of the preceding sentence, then Landlord will be deemed to have approved of such assignment or subletting. If it would be unreasonable for Landlord to withhold, condition or delay its consent, but Landlord for whatever reason does not wish an assignment or subletting of the entire Premises to be consummated, Landlord's sole and exclusive right in such situation shall be to terminate this Lease by written notice to Tenant, which notice must specify a termination date no earlier than sixty (60) days after the date of such notice and no later than one hundred twenty (120) days after the date of such notice. Such termination notice must be given within twenty (20) days after the date upon which Tenant requests Landlord's consent to such assignment or subletting. If such termination notice is not given within such twenty (20)-day period of time, then Landlord shall be deemed to have consented to such assignment or subletting.

11.2 **Deemed Assignments.** Any change in the partners or members of Tenant (except to any of Tenant's Affiliates), if Tenant is a partnership or limited liability company, or, if Tenant is a corporation, any transfer of any or all of the shares of stock of Tenant (except to any of Tenant's Affiliates), resulting in a change in the identity of the person or persons owning a majority of equity interests in Tenant as of the date of this Lease, will be deemed to be an assignment within the meaning of this *Section 11*. However, a transfer of the stock or partnership or membership interests of Tenant if Tenant is a publicly held entity whose equity interests are traded on a national stock exchange, or in an initial public offering, will not constitute an assignment requiring Landlord's consent pursuant to this *Section 11*. A transfer of interests in Tenant's parent entity does not constitute a violation of this *Section 11.2*.

11.3 **General Provisions.** No subletting or assignment by Tenant hereunder, regardless of whether the same requires Landlord's consent, will release or discharge Tenant of or from any liability, whether past, present or future, under this Lease, and Tenant will continue fully liable hereunder. Notwithstanding the foregoing, in the event the Release Conditions, as defined above, are met, then Tenant and Guarantor will be automatically released from all obligations arising under this Lease from and after the date of such assignment or sublease and Landlord agrees to execute an agreement confirming such release within ten (10) days after requested to do so by Tenant or Guarantor, or both, although execution of such document will not be necessary for such release to be effective. The sublessee or assignee will agree to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease to the extent of the space sublet or assigned from and after the date of such assignment or subletting, and Tenant will deliver to Landlord promptly after execution an executed copy of each such sublease or assignment and such an agreement of compliance by each such sublessee or assignee. Consent by Landlord to any assignment of this Lease or to any subletting of the Premises will not be a waiver of Landlord's rights under this section as to any subsequent assignment or subletting. Any sale, assignment, mortgage, transfer or subletting of this Lease which is

not in compliance with the provisions of this *Section 11* will be of no effect and void. Landlord will not assign its interest in this Lease before the Original Commencement Date. After the Original Commencement Date, Landlord's right to assign its interest in this Lease will remain unqualified. Landlord may charge Tenant up to $1,000.00 for attorneys' fees and administrative expenses incident to a review of any documentation related to any proposed assignment or subletting by Tenant.

12. **CASUALTY**

12.1 **Landlord's Obligations**.

(a) Subject to subsections (b) and (c) below, in the event the Improvements shall be damaged by fire or other casualty, Landlord shall, at its own expense, cause such damage to be repaired, and the Rent shall be abated from the date of the occurrence of such fire or other casualty until such repair work is completed.

(b) Subject to subsection (c) below, if a fire or other casualty occurs during the last two (2) years of the Term of this Lease and (A) the cost of repairing or restoring the Improvements to their condition existing prior to such casualty, as determined by an architect or contractor selected by Landlord and reasonably approved by Tenant, is equal to or greater than 75% of the market value of the Improvements immediately preceding such casualty, as determined by an appraiser selected by Landlord and reasonably approved by Tenant or (B) the time required to repair and restore the Improvements to their condition existing prior to such casualty, using a reasonable construction schedule as determined by an architect or contractor selected by Landlord and reasonably approved by Tenant, will exceed 180 days from the commencement of repairs and restoration, then either Landlord or Tenant may, at its option, elect to terminate this Lease by giving the other written notice of termination within thirty (30) days from the date of such occurrence. In such event, the proceeds of insurance will belong to the party carrying such insurance, Tenant will not be required to pay the deductible, and the Rent shall abate completely from and after the date of the occurrence of such fire or other casualty.

(c) Notwithstanding the foregoing, in the event that the Improvements shall be damaged by any casualty not covered by Landlord's insurance as required by *Section 9.1*, Landlord shall have the option to terminate this Lease by notice to Tenant within sixty (60) days of the occurrence; provided, that Tenant may nullify Landlord's notice of termination in such case by notifying Landlord within ten (10) days thereafter that Tenant will make available to Landlord funds sufficient to cover the uninsured damage and making arrangements reasonably satisfactory to Landlord to make such funds available to Landlord as needed. If Tenant makes such funds available to Landlord, Landlord shall have no obligation to repay such funds to Tenant any time or in any manner.

12.2 **Time for Repairs.** In the event of partial damage to the Improvements, Landlord shall advise Tenant in writing within thirty (30) days of the occurrence the time that Landlord estimates will be required to repair or restore the Improvements, using a reasonable construction schedule. If Landlord is obligated to repair or to restore the Improvements damaged by fire other casualty, Landlord shall commence to repair any such damage or to restore the Improvements as soon as reasonably possible (and in any event, within sixty (60) days after the date of such occurrence) and shall diligently pursue completion of such repairs or restoration. In the event Landlord does not complete such repairs within the time period specified in such estimate (as extended by one (1) day of each day of each day of delay after the tenth (10th) day of delay due to force majeure), then Landlord must pay to Tenant $2,000 per day for the period of time after the date specified in such estimate until Landlord completes such repairs. If Landlord does not complete such repairs within one hundred eighty (180) days after commencement of such repairs and restoration, then Tenant may also terminate this Lease by written notice to Landlord at any time before Landlord completes such repairs. In such event, Landlord and Tenant will have no further obligations to each other except that Landlord must return all Basic Rent

and other charges paid by Tenant for the period after the occurrence of such event and must pay to Tenant the amounts accruing under this *Section 12.2* for Landlord's failure to complete such repairs and Tenant will not be required to pay the deductible to Landlord.

13. **EMINENT DOMAIN**

13.1 **Termination.** If the whole of the Premises is taken by any public authority under the power of eminent domain, this Lease will terminate as of the day possession is taken by such public authority. If more than 30% of the floor area of the Building is taken, or if so much of the Land is taken that Tenant is permanently deprived of the use of more than 30% of the parking spaces previously available on the Land (and such spaces cannot be reconstructed on the remaining Land or any adjacent land acquired by Landlord for that purpose within 90 days after Tenant is so deprived of such use), by any public authority under the power of eminent domain, then Tenant may, by notice to Landlord, terminate this Lease as of the day possession is taken by such public authority. In case of any such termination, Landlord will make a pro rata refund of any prepaid Rent.

13.2 **Restoration; Award.** Anything in this *Section 13* to the contrary notwithstanding, in the event of a partial condemnation of the Premises where this Lease is not terminated, (i) Landlord will, at its sole cost and expense, restore the Premises (other than any alterations or improvements installed by Tenant) to a complete architectural unit (but Landlord's restoration obligations will be limited to restoration and repair of the Original Building and, if applicable, the Expansion Building, including all sitework), and (ii) the Basic Rent provided for herein during the period from and after the date of delivery of possession pursuant to such proceedings to the termination of this Lease will be reduced to a sum equal to the product of the Basic Rent provided for herein multiplied by a fraction, the numerator of which is the area of the Premises remaining after such taking and after the same has been restored to a complete architectural unit, and the denominator of which is the area of the Premises prior to such taking. In the event of any such taking or purchase in lieu thereof and neither Landlord nor Tenant terminates this Lease, Landlord shall be entitled to receive the entire price or award from any such taking or private purchase in lieu thereof without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award. If this Lease terminates for any reason, then Landlord and Tenant may prosecute their claims in any condemnation proceedings for the value of their respective interest. Landlord shall be entitled to the condemnation award attributable to the real property and improvements and Tenant shall be entitled to the condemnation award for the taking of its personalty (store fixtures and equipment), relocation expenses, goodwill, loss of business and any other award not related to the value of the real property and improvements, but shall not be entitled to make a claim for the leasehold improvements or the leasehold estate.

14. **END OF TERM**

14.1 **Surrender.** On the last day of the Term, or on the sooner termination thereof, Tenant will peaceably surrender the Premises in good condition and repair (ordinary wear and tear and damage by casualty excepted), consistent with Tenant's duty to make repairs as herein provided. Tenant will give written notice to Landlord at least 30 days prior to vacating the Premises for the express purpose of arranging a meeting with Landlord for a joint inspection of the Premises. On or before the last day of the Term, or the date of sooner termination thereof, Tenant may, at its sole cost and expense, remove all of its property and trade fixtures and equipment from the Premises and repair all damage to the Premises caused by such removal. All property not removed will be deemed abandoned. Tenant hereby appoints Landlord its agent to remove all property of Tenant not so removed from the Premises upon termination of this Lease and to cause its transportation and storage for Tenant's benefit, all at the sole cost and risk of Tenant, and Landlord will not be liable for damage, theft, misappropriation or loss thereof, nor will Landlord be liable in any manner in respect thereto. Tenant will reimburse Landlord upon demand for any expenses incurred by Landlord with respect to removal, transportation or storage of abandoned property and with respect to restoring such Premises to good order, condition and repair.

All Leasehold Improvements and any other modifications, improvements, alterations, additions and fixtures, other than Tenant's trade fixtures and equipment, which have been made or installed by either Landlord or Tenant upon the Premises, will become the property of Landlord on the last day of the Term or sooner termination thereof and will be surrendered with the Premises as a part thereof. Tenant will promptly surrender all keys for the Premises to Landlord at the place then fixed for the payment of Rent and will inform Landlord of combinations on any vaults, locks and safes left on the Premises.

14.2 **Holding Over.** In the event Tenant remains in possession of the Premises after expiration of this Lease without Landlord's consent, Tenant will be deemed to be occupying the Premises without claim of right, and Tenant will indemnify Landlord against loss or liability resulting from delay by Tenant in surrendering the Premises, including, without limitation, claims made by any succeeding tenants founded on such delay and any attorneys' fees resulting therefrom. In addition, if Tenant remains in possession of the Premises after expiration of this Lease without a written agreement with Landlord as to (i) the amount Rent to be paid for such occupancy, Tenant will pay a charge for each day of occupancy in an amount equal to 150% of the Basic Rent (on a daily basis) payable immediately prior to such expiration, plus 100% of all Additional Rent (also on a daily basis); or (ii) the duration of Tenant's holdover tenancy, Tenant will be deemed a tenant at sufferance.

15. **DEFAULTS AND REMEDIES**

15.1 **General.** All rights and remedies of Landlord and Tenant enumerated in this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress at law or in equity to which either party may be lawfully entitled in case of any breach or threatened breach by the other party of any provision of this Lease. The failure of either party to insist in any one or more cases upon the strict performance of any of the covenants of this Lease or to exercise any option herein contained will not be construed as a waiver or relinquishment for the future of such covenant or option. A receipt by Landlord of Rent with knowledge of the breach of any covenant hereof (other than breach of the obligation to pay the portion of such Rent paid) will not be deemed a waiver of such breach, and no waiver by either party of any provisions of this Lease will be deemed to have been made unless expressed in writing and signed by such party. Each party agrees to pay, upon demand, all of the other party's costs, charges and expenses, including the reasonable fees and out-of-pocket expenses of counsel, agents, and others retained, incurred in successfully enforcing the other party's obligations under this Lease.

15.2 **Events of Default.** Each of the following events will constitute an "**Event of Default**" under this Lease:

(a) **Failure to Pay Rent.** Tenant fails to pay Basic Rent or any other Rent payable by Tenant under the terms of this Lease when due, and such failure continues for 10 days after notice from Landlord to Tenant of such failure (provided that, with respect to monthly installments of Basic Rent, Tenant will only be entitled to two notices of such failure during any calendar year and if, after two such notices are given in any calendar year, Tenant fails, during such calendar year, to pay any further monthly installment of Basic Rent when due, such failure will constitute an Event of Default hereunder without any further notice from Landlord or additional cure period).

(b) **Failure to Perform Other Obligations.** Tenant breaches or fails to comply with any provision of this Lease applicable to Tenant other than a covenant to pay Rent, and such breach or noncompliance continues for a period of 30 days after notice thereof from Landlord to Tenant; or, if such breach or noncompliance cannot be reasonably cured within such 30-day period, Tenant does not commence to cure such breach or noncompliance within such 30-day period or, after commencing to cure such breach or noncompliance, does not thereafter diligently pursue such cure in good faith to completion.

(c) **Execution and Attachment Against Tenant.** Tenant's interest under this Lease or in the Premises is taken upon execution or by other process of law directed against Tenant, or is subject to any attachment by any creditor or claimant against Tenant and such attachment is not discharged or disposed of within 60 days after levy.

(d) **Bankruptcy or Related Proceedings.** Tenant files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency Laws, or voluntarily takes advantage of any such Laws by answer or otherwise, or dissolves or makes a general assignment for the benefit of creditors, or involuntary proceedings under any such Laws or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for the Premises or for all or substantially all of Tenant's property, and such involuntary proceedings are not dismissed or such receivership or trusteeship vacated within 60 days after such institution or appointment.

15.3 **Landlord's Remedies.** Time is of the essence. If any Event of Default occurs, Landlord will have the right, at Landlord's election, then or at any later time, to exercise any one or more of the following remedies:

(a) **Cure by Landlord.** Landlord may, at Landlord's option but without obligation to do so, and without releasing Tenant from any obligations under this Lease, make any payment or take any action as Landlord deems necessary or desirable to cure any Event of Default in such manner and to such extent as Landlord in good faith deems necessary or desirable. Tenant will pay Landlord, upon demand, all reasonable advances, costs and expenses of Landlord in connection with making any such payment or taking any such action, including reasonable attorney's fees, together with interest at the Interest Rate, from the date of payment of any such advances, costs and expenses by Landlord.

(b) **Termination of Lease and Damages.** Landlord may terminate this Lease, effective at such time as may be specified by notice to Tenant, and demand (and, if such demand is refused, recover) possession of the Premises from Tenant. In such event, Landlord will be entitled to recover from Tenant, as damages for loss of the bargain and not as a penalty, an aggregate sum equal to (i) all unpaid Basic Rent and other Rent for any period prior to the termination date of this Lease (including interest from the due date to the date of the award at the Interest Rate); plus (ii) the present value at the time of termination (calculated by discounting on a monthly basis at a discount rate equal to the rate payable on U.S. Treasury securities offered at the time of award having a maturity closest to the date on which the Term would have expired but for such termination) of the amount, if any, by which (A) the aggregate of the Basic Rent and all other Rent payable by Tenant under this Lease that would have accrued for the balance of the Term after termination, exceeds (B) the amount of such Basic Rent and other Rent which could reasonably be recovered by reletting the Premises for the remainder of the Term at the then-current fair rental value; plus (iii) interest on the amount described in (ii) above from the termination date to the date of the award at the Interest Rate.

(c) **Repossession and Reletting.** Landlord may reenter and take possession of all or any part of the Premises, without additional demand or notice unless required by applicable Laws, and repossess the same and expel Tenant and any party claiming by, through or under Tenant, and remove the effects of both using such force for such purposes as may be necessary, without being liable for prosecution for such action or being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or right to bring any proceeding for breach of covenants or conditions. No such reentry or taking possession of the Premises by Landlord will be construed as an election by Landlord to terminate this Lease unless a notice of such intention is given to Tenant. No notice from Landlord or notice given under a forcible entry and detainer statute or similar Laws will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right, following any reentry or reletting, to

exercise its right to terminate this Lease by giving Tenant such notice, in which event this Lease will terminate as specified in such notice. After recovering possession of the Premises, Landlord will use reasonable efforts to relet the Premises on commercially reasonable terms and conditions. Landlord may collect and receive the rents for such reletting. Landlord may apply the same first to the payment of such expenses as Landlord may have incurred in recovering possession of the Premises, including attorneys' fees and expenses for putting the same into good order and condition (but specifically excluding the cost of any lease commission or the cost of preparing or altering the same for re-rental), and then to the fulfillment of the covenants of Tenant hereunder. Any such reletting herein provided for may be for the remainder of the Term or any renewal term of this Lease, as originally granted, or for a longer or shorter period; Landlord will have the right to change the character and use made of the Premises, and Landlord will not be required to accept any substitute tenant offered by Tenant or to observe any instructions given by Tenant about reletting. Regardless of Landlord's recovery of possession of the Premises, so long as this Lease is not terminated Tenant will continue to pay (and Landlord may recover, if Tenant fails to do so), on the dates specified in this Lease, the Basic Rent and other Rent which would be payable if such repossession had not occurred, less a credit for the net amounts, if any, actually received by Landlord through any reletting of the Premises as long as Landlord gives Tenant at least thirty (30) days' notice of the net amount due (which notice Landlord may change from time to time as the facts change). Tenant will have thirty (30) days after receipt of notice from Landlord of any other amount due in which to pay such amount.

(d) **Bankruptcy Relief.** Nothing contained in this Lease will limit or prejudice Landlord's right to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding, an amount equal to the maximum allowable by any Laws governing such proceeding in effect at the time when such damages are to be proved, whether or not such amount be greater, equal or less than the amounts recoverable, either as damages or Rent, under this Lease.

15.4 **Landlord's Default; Tenant's Remedies.** If, during the Term, Landlord defaults in fulfilling any of its covenants, obligations or agreements set forth in this Lease, Tenant may give Landlord notice of such default and, if at the expiration of 30 days after delivery of such notice, such default continues to exist, or in the event of a default which cannot with due diligence be cured within a period of 30 days, if Landlord fails to proceed promptly after the delivery of such notice and with all due diligence to commence to cure the same and thereafter to prosecute the curing of such default with all due diligence to completion as soon as reasonably possible, then Tenant will be entitled to exercise any right or remedy available to Tenant at law or in equity by reason of such default, except to the extent expressly waived or limited by the terms of this Lease, and, provided that Tenant stated in such notice of default to Landlord that Tenant intended to effect its self-help and offset rights under this *Section 15.4*, Tenant may proceed to cure Landlord's default and offset the amount reasonably expended by Tenant in doing so, plus interest thereon at the Interest Rate from the date incurred to the date offset, against the next accruing amounts of Basic Rent due hereunder; provided, however, in no event may Tenant offset against any monthly installment of Basic Rent an amount exceeding 25% of such installment and if such monthly offset is less than the total amount of Tenant's expenses which are allowable for offset, the remaining balance thereof may be carried forward and offset against future installments of Basic Rent (but never more than 25% of any month's Basic Rent); provided further that, if the balance of the Term will not allow full recovery of the offset amount at the rate of 25% of each installment of Basic Rent, Tenant may amortize the full offset over the balance of the remaining monthly installments of Basic Rent, even if the monthly amortized offsets are in excess of 25% of those installments. Notwithstanding the foregoing, however, if Tenant has been notified of the name and address of any mortgagee, ground lessor, trust deed holder, and/or sale-leaseback lessor of Landlord's interest in the Premises, then Tenant will not exercise any remedy as a result of Landlord's default unless and until Tenant has given any such mortgagee, ground lessor, trust deed holder and/or sale-

leaseback lessor, by registered or certified mail, a copy of any notice of default served upon Landlord simultaneously with the delivery of notice to Landlord.

15.5 **Disclaimer of Landlord's Lien.** Landlord disclaims and waives any statutory or common law lien (excluding, however, any judgment lien) on the Leasehold Improvements or any personal property of Tenant in or on the Premises.

16. **SUBORDINATION**

16.1 **Subordination, Nondisturbance and Attornment.** This Lease will be subject and subordinate to any mortgage, deed of trust, ground lease or sale-leaseback now placed upon the Premises by Landlord, and to amendments, renewals and extensions thereof. Landlord must obtain from any holder of any mortgage, deed of trust, ground lease, or sale-leaseback interest which has priority over this Lease at the time of execution of this Lease and recording of the Memorandum of Lease a Non-disturbance Agreement on the form attached to this Lease as *Exhibit F* or such other form as is acceptable to Tenant (an "NDA") and if Landlord does not do so before the Original Commencement Date, all Rent will be forgiven from the Original Commencement Date through the date that Landlord delivers such NDA, executed by such holder and Landlord, to Tenant. Tenant agrees to subordinate this Lease to any mortgage, deed of trust, ground lease, or sale-leaseback interest placed upon the Premises by Landlord after the Original Commencement Date and to any amendments, renewals, and extensions thereof upon the condition that the holder of the instrument to which this Lease is subordinated has given Tenant an NDA upon the form attached as *Exhibit F* or such other form as is acceptable to Tenant.

16.2 **Option to Make Lease Superior.** Notwithstanding anything contained in *Section 16.1*, in the event the holder of any mortgage, deed of trust, ground lease or sale-leaseback instrument at any time elects to have this Lease constitute a prior and superior lien to its mortgage, deed of trust, ground lease or sale-leaseback instrument, then, and in such event, upon any such holder or Landlord notifying Tenant to that effect in writing, this Lease in its entirety will be deemed prior and superior in lien to such mortgage, deed of trust, ground lease or sale-leaseback instrument, whether this Lease is dated prior to or subsequent to the date of such mortgage, deed of trust, ground lease or sale-leaseback instrument.

17. **MISCELLANEOUS**

17.1 **Brokers.** Landlord and Tenant represent and warrant that no broker or agent negotiated or was instrumental in negotiating or consummating this Lease except Peterson Realty Group. Neither party knows of any other real estate broker or agent who is or might be entitled to a commission or compensation in connection with this Lease. Landlord will pay any and all fees, commissions or other compensation payable to Peterson Realty Group. Tenant and Landlord will indemnify and hold each other harmless from all damages paid or incurred by the other resulting from any claims asserted against either party by brokers or agents claiming through the other party (other than Peterson Realty Group, who will be paid by Landlord as provided above).

17.2 **Estoppel Certificates.** Landlord and Tenant agree, from time to time, upon not less than 10 days' prior written request by the other party, to deliver to the other party a statement in writing certifying (i) this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (ii) the dates to which Basic Rent and other Rent have been paid; (iii) the other party is not in default in any provision of this Lease or, if in default, the nature thereof specified in detail; (iv) the amount of monthly Basic Rent currently payable by Tenant; (v) the amount of any prepaid Rent; (vi) that Tenant has taken possession of the Original Premises (if Tenant has in fact done so) and that Landlord has performed all of its obligations under *Section 3* with respect to the design, construction and installation of the Original Base Building and the Original Leasehold Improvements, or if there are any such obligations

remaining to be performed, specifying the same in detail; (vii) if applicable, that Tenant has taken possession of the Expansion Building (if Tenant has in fact done so) and that Landlord has performed all of its obligations under *Section 18* with respect to the design, construction and installation of the Expansion Base Building and the Expansion Leasehold Improvements, or if there are any such obligations remaining to be performed, specifying the same in detail; and (viii) such other matters as may be reasonably requested by the requesting party or any mortgagee or prospective purchaser of the Premises.

17.3 **Notices.** All notices required or permitted under this Lease must be in writing and will only be deemed properly given and received (i) when actually given and received, if delivered in person to a party who acknowledges receipt in writing or, for purposes of notice pursuant to *Section 3*, if transmitted by telecopier; or (ii) one business day after deposit with a private courier or overnight delivery service, if such courier or service obtains a written acknowledgment of receipt; or (iii) three business days after deposit in the United States mails, certified or registered mail with return receipt requested and postage prepaid. All such notices must be transmitted by one of the methods described above to the party to receive the notice at, in the case of notices to Landlord, Landlord's Notice Address, and in the case of notices to Tenant, the applicable Tenant's Notice Address, or, in either case, at such other address(es) as either party may notify the other of according to this *Section 17.3*.

17.4 **Actions By Agents.** All rights and remedies of Landlord and Tenant under this Lease or that may be provided by law may be executed by the applicable party in its own name, individually, or in the name of its agent, and all legal proceedings for the enforcement of any such rights or remedies, including those set forth in *Section 15*, may be commenced and prosecuted to final judgment and execution by the applicable party in its own name or in the name of its agent. The applicable party will, upon the other's request, provide written evidence of the authority of any agent of Landlord to act on Landlord's behalf.

17.5 **Severability; Governing Law.** If any term or provision of this Lease is to any extent held invalid or unenforceable, the remaining terms and provisions of this Lease will not be affected thereby, but each term and provision of this Lease will be valid and enforced to the fullest extent permitted by law. This Lease will be construed and enforced in accordance with the laws of the State of Texas.

17.6 **Transfers of Landlord's Interest.** The term "**Landlord**" as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, will be limited to mean and include only the owner or owners of the Premises at the time in question, and in the event of any transfer or conveyance after the Original Commencement Date, the then-grantor will be automatically freed and released from all personal liability accruing from and after the date of such transfer or conveyance as respects the performance of any covenant or obligation on the part of Landlord contained in this Lease to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord will be binding, subject to *Section 17.11*, on the then-Landlord only during and in respect to its period of ownership. In the event of a sale or conveyance by Landlord of the Premises after the Original Commencement Date, the same will operate to release Landlord from any future liability upon any of the covenants or conditions herein contained and in such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this Lease. This Lease will not be affected by any such sale or conveyance, and Tenant agrees to attorn to the purchaser or grantee, which will be obligated on this Lease only so long as it is the owner of Landlord's interest in and to this Lease. In the event Landlord sells or otherwise transfers the Premises, Tenant will be entitled to pay all Rent and other amounts due under the terms of this Lease to Landlord at Landlord's last known address unless and until Tenant receives written notice from Landlord authorizing Tenant to pay such amounts to the new owner of the Premises and a written assumption by such new owner of all Landlord's duties and obligations under this Lease which arise after the transfer.

17.7 **Headings.** The marginal or topical headings of the several sections are for convenience only and do not define, limit or construe the contents of such sections.

17.8 **Complete Agreement; Modification.** All of the representations and obligations of the parties are contained in this Lease and no modification, waiver or amendment of this Lease or of any of its conditions or provisions will be binding upon a party unless in writing signed by such party.

17.9 **No Offer.** The submission of this document for examination does not constitute an offer to lease, or a reservation of, or option for, the Premises. This document becomes effective and binding only upon the execution and delivery hereof by the proper officer of Landlord and by Tenant.

17.10 **Survival.** All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of the Term will survive the expiration or earlier termination of the Term, including, without limitation, all payment obligations with respect to Taxes and all obligations concerning the condition of the Premises.

17.11 **Limitation On Landlord's Liability.** Tenant agrees to look solely to Landlord's interest in the Premises for the recovery of any judgment from Landlord, it being agreed that Landlord, and if Landlord is a partnership, its partners whether general or limited, and if Landlord is a corporation, its directors, officers or shareholders, and if Landlord is a

limited liability company, its managers or members, will never be personally liable for any such judgment.

17.12 **Authority.** Tenant will furnish to Landlord and Landlord will furnish to Tenant, promptly upon demand, a corporate resolution, proof of due authorization of partners, or other appropriate documentation reasonably requested by the other party evidencing the due authorization of Tenant or Landlord, as the case may be, to enter into this Lease.

17.13 **No Partnership.** This Lease will not be deemed or construed to create or establish any relationship or partnership or joint venture or similar relationship or arrangement between Landlord and Tenant hereunder.

17.14 **Force Majeure.** Whenever a period of time is herein prescribed for action to be taken by either party, such party will not be liable or responsible for, and there will be excluded from the computation of any such period of time, any delays due to force majeure.

17.15 **Financial Statements.** Tenant acknowledges that it has provided Landlord with its financial statement as a material inducement to Landlord's agreement to lease the Premises to Tenant, and that Landlord has relied on the accuracy of such financial statement in entering into this Lease. Tenant represents and warrants that the information contained in such financial statement is true, complete and correct in all material aspects. Within 10 days from request by Landlord, Tenant will make available to Landlord or to any prospective purchaser or lender of the Premises, audited financial statements of Tenant or any guarantor, provided, that Landlord or any such prospective purchaser or lender agrees to maintain such statements in confidence, and provided further that if audited financial statements of Tenant are not available at the time of such request, Tenant may deliver unaudited statements prepared in accordance with generally accepted accounting principles consistently applied and certified to be true and correct by Tenant's chief financial officer.

17.16 **Binding Effect.** The covenants and agreements herein contained will bind and inure to the benefit of Landlord and its successors and assigns, and Tenant and its permitted successors and assigns. All obligations of each party constituting Tenant hereunder will be the joint and several obligations of each such party.

17.17 **Lease Guaranty.** Tenant covenants and agrees to cause Guarantor to execute and deliver to Landlord a Lease Guaranty in form and substance as that which is attached hereto as *Exhibit G*. In the event a fully executed original of the Lease Guaranty is not provided to Landlord within three (3) days following the date of this Lease, then Landlord may, at its option and as its sole and exclusive remedy, terminate this Lease.

17.18 **Corporate Authority.** Contemporaneous with the execution of this Lease, Tenant shall provide to Landlord the following:

(a) A copy of Tenant's Good Standing, or similar certificate, issued by the Secretary of State of the State of Tenant's incorporation;

(b) Evidence that Tenant is qualified to do business in the State wherein the Land is located; and

(c) A copy of the appropriate corporate resolutions, certified by the secretary or the assistant secretary of the Tenant, evidencing the authorization of the Tenant to execute this Lease.

In the event a guaranty agreement is executed with respect to this Lease, Tenant shall additionally provide to Landlord, contemporaneous with the execution of this Lease, the items listed above for the guarantor.

18. **EXPANSION OPTION.** Landlord hereby grants to Tenant the right to expand the Improvements on the Land in accordance with the terms of this *Section 18*. Such expansion right is a continuing right that expires on the Expiration Date, and inures solely to the benefit of (A) Tenant, Tenant's corporate successors and assigns (including, without limitation, any person or entity that acquires Tenant), and

(B) any assignee of this Lease (including, without limitation, Tenant's Affiliates) to whom Tenant assigns such right unless Landlord is entitled to and recaptures the Premises in accordance with the terms of *Section 11.1* above and their corporate successors and assigns (with all such persons or entities being deemed included in the term "**Tenant**"). Tenant cannot assign this expansion option to any person or entity other than an assignee of this Lease. Tenant cannot exercise this expansion option (Y) if an Event of Default has occurred and is ongoing, or (Z) if neither Tenant nor its guarantor has a net worth (excluding goodwill) greater than or equal to $75 million at the time Tenant (or its assignee, as the case may be) exercises such expansion option.

(a) In the event Tenant wishes to exercise this right, Tenant must notify Landlord of such fact, which notice must specify that Tenant wishes to go forward with the expansion pursuant to the specifications of *Exhibit H* to this Lease (the "**2-Story Plan**") or the specifications of *Exhibit I* to this Lease (the "**3-Story Plan**"). The building shell for the building that Tenant elects to have constructed is referred to in this Lease as the "**Expansion Base Building**" and the Tenant improvements to the Expansion Base Building are referred to as the "**Expansion Leasehold Improvements**." The Expansion Base Building and the Expansion Leasehold Improvements are collectively referred to as the "**Expansion Building**" and the work of constructing the Expansion Building is referred to as "**Landlord's Expansion Work**".

(b) On or before thirty (30) days after Tenant delivers such notice to Landlord, Landlord will cause its architect to prepare and deliver to Tenant preliminary plans and specifications for the Expansion Base Building (the "**Expansion Base Building Plans**"), which plans must be based on an exterior appearance substantially similar to the Original Base Building. While these preliminary plans and specifications are not required to be permit-ready, they must contain a site plan, floor plan, one-quarter inch (0.25") scale core building plans, elevations of the Expansion Base Building and a riser diagram of the mechanical, electrical and plumbing systems. Within five (5) business days after Tenant receives such preliminary Expansion Base Building Plans, Tenant will either approve the same in writing or notify Landlord in writing of Tenant's objections to the preliminary Expansion Base Building Plans and how the preliminary Expansion Base Building Plans must be changed in order to make them acceptable to Tenant. Each business day following the fifth (5th) business day after the preliminary Expansion Base Building Plans are submitted to Tenant until Tenant either approves them or delivers a notice of objections to Landlord will be a day of Tenant Expansion Delay. Within five (5) business days after Landlord's receipt of Tenant's notice of objections, Landlord will cause its architect to prepare revised Expansion Base Building Plans according to such notice and submit the revised Expansion Base Building Plans to Tenant. In any review, Tenant cannot object to any aspect of the proposed Expansion Base Building Plans (i) if such objection would require material deviations from the terms of *Exhibit H* or *Exhibit I* attached to this Lease, as the case may be, or (ii) such objection was not included within any of the previous objections made by Tenant to the Expansion Base Building Plans unless the item objected to was not included in any of the previous versions of the Expansion Base Building Plans or such item was so included, but has been affected by a subsequent change to the Expansion Base Building Plans. However, it is understood and agreed that Tenant has the right to select the following items, even if such items are not consistent with the guidelines detailed in the Base Building Specifications attached as *Exhibit B* or with the same items in the Original Building , as long as they are available to comply with the schedule for construction of the Expansion Building: exterior brick, glass, and metal frames; restroom finishes (including, without limitation, ceramic tile and toilet partitions); lobby finishes; elevator cab finishes; landscaping; and common area interior finishes, doors and hardware. Upon submittal to Tenant of the revised Expansion Base Building Plans, and upon submittal of any further revisions, the procedures described above will be repeated until Landlord and Tenant have reached agreement. Once they have reached agreement, Landlord must promptly prepare permit-ready Expansion Base Building Plans and submit them to Tenant for Tenant's approval. The only grounds upon which Tenant can object to such permit-ready Expansion

Base Building Plans is that they materially differ from the final approved preliminary Expansion Base Building Plans. Tenant's failure to respond to Landlord's submission within five (5) business days after Landlord delivers such permit-ready Expansion Base Building Plans to Tenant constitutes Tenant's approval of such permit-ready Expansion Base Building Plans. The final permit-ready Expansion Base Building Plans, as approved by Landlord and Tenant, constitute the "**Approved Expansion Base Building Plans**" under this Lease.

(c) On or before seventy-five (75) days after Landlord and Tenant have approved the Approved Expansion Base Building Plans, Tenant will cause its architect to prepare and deliver to Landlord preliminary plans and specifications for the Expansion Leasehold Improvements (the "**Expansion Leasehold Improvements Plans**"). While these preliminary plans and specifications are not required to be permit-ready, they must show sufficient detail concerning all aspects of the Expansion Leasehold Improvements so that making them permit-ready is only a matter of incorporating technical details. Each day following the expiration of such seventy-five (75)-day period until Tenant delivers the preliminary Expansion Leasehold Improvements Plans will be a day of Expansion Tenant Delay. Within five (5) business days after receipt of the preliminary Expansion Leasehold Improvements Plans, Landlord will either approve the same in writing or notify Tenant in writing of Landlord's objections to the preliminary Expansion Leasehold Improvements Plans and how the preliminary Expansion Leasehold Improvements Plans must be changed in order to make them acceptable to Landlord. Landlord can only object to the preliminary Expansion Leasehold Improvements Plans on the grounds that they would adversely affect the structural integrity of the Expansion Base Building or materially modify any portion of the Core Building Systems of the Expansion Base Building and cannot object in any subsequent review to any matter not raised in a preceding review, unless the item objected to was not included in any of the previous versions of the Expansion Leasehold Improvements Plans or such item was so included, but has been affected by a subsequent change to the Expansion Leasehold Improvements Plans. However, under all circumstances, Tenant has the right to select the following items as they apply to the Expansion Leasehold Improvements, but only as long as such items are available to comply with the schedule of construction of the Expansion Building: exterior brick, glass, and metal frames; restroom finishes (including, without limitation, ceramic tile and toilet partitions); lobby finishes; elevator cab finishes; landscaping; and common area interior finishes, doors and hardware. If Landlord fails to respond in the manner set forth above within five (5) business days after the date Tenant delivers the preliminary Expansion Leasehold Improvements Plans to Landlord or objects to the preliminary Expansion Leasehold Improvements Plans on any grounds other than those set forth in the immediately-preceding sentence, then Landlord will be conclusively deemed to have approved the preliminary Expansion Leasehold Improvements Plans. Within five (5) business days after Tenant's receipt of Landlord's notice of objections (if such objections meet the requirements set forth above), Tenant will cause its architect to prepare revised Expansion Leasehold Improvements Plans according to such notice and submit the revised Expansion Leasehold Improvements Plans to Landlord. Upon submittal to Landlord of the revised Expansion Leasehold Improvements Plans, and upon submittal of any further revisions, the procedures described above will be repeated until Landlord and Tenant have reached agreement. Once they have reached agreement, Tenant must promptly prepare permit-ready Expansion Leasehold Improvements Plans and submit them to Landlord for Landlord's approval. The only grounds upon which Landlord can object to such permit-ready Expansion Leasehold Improvements Plans is that they materially differ from the final approved Expansion Leasehold Improvements Plans. Landlord's failure to respond to Tenant's submissions within five (5) business days after Tenant delivers such permit-ready Expansion Leasehold Improvements Plans to Landlord constitutes Landlord's approval of such permit-ready Expansion Leasehold Improvements Plans. The permit-ready Expansion Leasehold Improvements Plans, as finally

approved, are referred to in this Lease as the "**Approved Expansion Leasehold Improvements Plans**."

(d) At such time as Landlord and Tenant have approved the Approved Expansion Leasehold Improvements Plans (and in any event within fifteen (15) days thereafter), Landlord will (i) obtain at least three bids for each of the major trades that will be involved in the construction of the Expansion Building, unless less than three qualified subcontractors exist for a given trade, in which case Landlord will obtain a bid from all qualified subcontractors of such trade (with Landlord agreeing to solicit and consider bids from subcontractors selected by Tenant); (ii) using the lowest qualified bid (which, in order to be qualified, must fully comply with all bid requirements, including but not limited to any time requirements specified) from each of the bids so received, prepare a proposed budget for all items to be included in Expansion Costs ("**Tenant's Expansion Cost Proposal**"); and (iii) submit copies of all bids, the Tenant's Expansion Cost Proposal, and the Expansion Basic Rent that Tenant would be required to pay based on the costs set forth in the Tenant's Expansion Cost Proposal to Tenant for Tenant's review and approval. Tenant, at Tenant's option, may either approve Tenant's Expansion Cost Proposal in writing, or elect to eliminate or revise one or more items of Expansion Building shown on the Approved Expansion Base Building Plans or the Approved Expansion Leasehold Improvements Plans, or request additional bids so as to reduce the costs shown in the Tenant's Expansion Cost Proposal. Tenant may then approve in writing the reduced Tenant's Expansion Cost Proposal (based on revised Approved Expansion Base Building Plans or Approved Expansion Leasehold Improvements Plans prepared by Tenant's architect or revised bids, as the case may be, which will then be deemed the Approved Expansion Base Building Plans and the Approved Expansion Leasehold Improvements Plans for all purposes under this Lease). However, each day following the fifth (5th) business day after Tenant's receipt of Tenant's Expansion Cost Proposal until the day on which Landlord has received Tenant's written approval of Tenant's Expansion Cost Proposal will be a day of Expansion Tenant Delay. The Tenant's Expansion Cost Proposal, as finally approved, is referred to in this Lease as the "**Approved Expansion Costs**."

(e) Tenant's Representative may request and authorize changes in Landlord's Expansion Work as long as such changes (i) are consistent with the scope of Landlord's Expansion Work, and (ii) do not affect the Expansion Base Building or any portion of the Core Building Systems relating to the Expansion Base Building. All other changes will be subject to Landlord's prior written approval, which approval Landlord cannot unreasonably withhold, delay, or condition. Within five (5) business days after Tenant requests a change in Landlord's Expansion Work and prior to commencing any change, Landlord will prepare and deliver to Tenant, for Tenant's approval, a change order ("**Expansion Change Order**") identifying the total cost or savings of such change, which will include associated architectural, engineering and construction contractor's fees, and the total time that will be added to or subtracted from the construction schedule by such change. Once Landlord delivers an Expansion Change Order to Tenant for Tenant's approval, Tenant must either affirmatively approve or disapprove of the Expansion Change Order within three (3) business days following Tenant's receipt of the Expansion Change Order. In the event Tenant fails to respond within the three (3) business day period, then each day thereafter that Tenant fails to respond shall be a Tenant Expansion Delay. Alternatively, Landlord may deliver to Tenant, within the same five (5) business day period, an estimate of the time and costs to be expended in calculating the Expansion Change Order. In the event Tenant does not respond or fails to affirmatively authorize Landlord to proceed on the third (3rd) business day following Tenant's receipt of such estimate, then it shall be conclusively deemed that Tenant withdrew its request for any change in Landlord's Expansion Work. If Tenant authorizes Landlord to proceed with calculating the cost of the Expansion Change Order, then Tenant shall be responsible for all reasonable costs associated therewith (and pay same to Landlord within 30 days following

Landlord's written request) and any delay in connection with such calculation shall be an Expansion Tenant Delay, whether or not Tenant ultimately approves the Expansion Change Order.

(f) Landlord must deliver the Expansion Building to Tenant, with Landlord's Expansion Work Substantially Completed, on or before two hundred ten (210) days after Landlord and Tenant approve the Approved Expansion Leasehold Improvements Plans (the "**Projected Expansion Completion Date**"), as such date has been delayed due to any Tenant Expansion Delays and Permitted Expansion Force Majeure Delays only, it being understood and agreed that such date cannot be extended for any reason other than Tenant Expansion Delays and Permitted Expansion Force Majeure Delays. If Landlord is unable to deliver possession of the Expansion Building, with Landlord's Expansion Work Substantially Completed by the Projected Expansion Completion Date, as it may be extended, (i) the Expansion Commencement Date (as that term is defined in *Section 18(j)(i)* below) will be extended automatically by one day for each day of the period after the Projected Expansion Completion Date to the day on which Landlord tenders possession of the Expansion Building to Tenant with Landlord's Expansion Work Substantially Completed, less any portion of that period attributable to Tenant Expansion Delays; and (ii) Landlord will pay Tenant, as liquidated damages, an amount equal to $2,000.00 per day for each day after such Projected Expansion Completion Date (as it may be extended) until Landlord tenders possession of the Expansion Building to Tenant with Landlord's Expansion Work Substantially Completed

and, if Landlord has tendered the Expansion Building to Tenant with Landlord's Expansion Work Substantially Complete, Landlord will pay to Tenant, as liquidated damages, $500.00 per day after the thirtieth (30th) day after Tenant delivers the Expansion Punch List to Landlord until Final Completion of Landlord's Expansion Work; and (iv) if Landlord does not tender possession of the Expansion Building to Tenant with the Landlord's Expansion Work Substantially Completed on or before two hundred seventy (270) days after Landlord and Tenant approve the Approved Expansion Leasehold Improvements Plans (plus any period of delay caused by Tenant Expansion Delays or Permitted Expansion Force Majeure Delay), Tenant will have the right to terminate this Lease by delivering written notice of termination to Landlord not more than 30 days after such deadline date. Upon a termination under clause (iv) above, each party will, upon the other's request, execute and deliver an agreement in recordable form containing a release and surrender of all right, title and interest in and to this Lease; neither Landlord nor Tenant will have any further obligations to each other, including, without limitation, any obligations to pay for work previously performed in the Expansion Building or the Premises, except as set forth in this sentence; all Improvements to the Original Building and the Expansion Building will become and remain the property of Landlord; and Landlord will refund to Tenant any sums paid to Landlord by Tenant in connection with this Lease, including, without limitation, any payments to Landlord of portions of Tenant's Expansion Cost and pay to Tenant the amounts that have accrued under clause (ii) above. Such postponement of the Expansion Commencement Date, payment of liquidated damages and termination and refund right will be in full settlement of all claims that Tenant might otherwise have against Landlord by reason of Landlord's failure to have Substantially Completed its obligations by the Projected Expansion Completion Date (as it may be extended). If Landlord delivers possession of the Expansion Building with the Landlord's Expansion Work Substantially Completed prior to the Projected Expansion Completion Date, then Tenant may either accept such delivery (in which case such date will be the Expansion Commencement Date hereunder) or may refuse to accept delivery until any date selected by Tenant that is no later than the Projected Expansion Completion Date (as it may be extended). Within sixty (60) days after the Expansion Commencement Date, Landlord will provide to Tenant a complete set of as-built drawings of Landlord's Expansion Work and manuals for all equipment incorporated into the Improvements as a part of Landlord's Expansion Work. Landlord and Tenant have sixty (60) days after Landlord notifies Tenant that the Expansion Building has been Substantially Completed in which to remeasure the Expansion Building, but after the expiration of such sixty (60) day period,

neither Landlord nor Tenant may remeasure the Expansion Building. The final Rentable Square Feet as shown in the Approved Expansion Base Building Plans are sometimes referred to as the "**Approved Expansion Rentable Square Feet**". In the absence of such remeasurement or the right to do so, it shall be conclusively deemed that the Expansion Building contains the Approved Expansion Rentable Square Feet. If Tenant timely elects to remeasure the Expansion Building, and the variance is greater than one percent (1%) but less than two percent (2%), the variance shall be permitted and have no effect on the Expansion Building being Substantially Completed, but the Expansion Basic Rent for the Expansion Building and all other amounts calculated based on the area of the Expansion Building will be modified accordingly. If the Expansion Building contains more than 102% of the Approved Expansion Rentable Square Feet, all amounts will be calculated as if the Expansion Building contains 102% of the Approved Expansion Rentable Square Feet. If the Expansion Building contains less than 98% of the Approved Expansion Rentable Square Feet, then Landlord must make all alterations necessary to increase the size of the Expansion Building to at least 98% of the Approved Expansion Rentable Square Feet, and the Expansion Building will not be deemed to be Substantially Completed. If, under such circumstances, Tenant fails to terminate this Lease pursuant to the termination right set forth in *Section 18(f)(iv)* above, then Tenant will be deemed to have accepted the size of the Expansion Building and the Expansion Building will be deemed to have been Substantially Completed on the day Landlord delivered the Expansion Building to Tenant with the Landlord's Expansion Work (other than the area of the Expansion Building) Substantially Complete. In such event, all amounts will be calculated on the actual size of the Expansion Building.

(g) As provided in *Section 18(j)(i)*, the Expansion Commencement Date (and therefore Tenant's obligation for the payment of Expansion Basic Rent) will not commence until Landlord has Substantially Completed Landlord's Expansion Work; provided, however, that if Landlord is delayed in causing Landlord's Expansion Work to be Substantially Completed as a result of: (a) any Change Orders or changes in any drawings, plans or specifications requested by Tenant (with each individual occurrence constituting a "**Tenant Expansion Delay**" and the cumulative occurrences constituting **Tenant Expansion Delays**"), or (b) force majeure delays (with such force majeure delays being referred to in this Lease as "**Permitted Expansion Force Majeure Delays**"), then, if such delays exceed ten (10) days, the Expansion Commencement Date will only be extended under *Section 18(f)* until the date on which Landlord would have Substantially Completed the performance of such work but for such delays. As a condition to claiming a Permitted Expansion Force Majeure Delay or a Tenant Expansion Delay, the day of delay must have otherwise been a day upon which Landlord intended to work on the item affected by the delay and Landlord must advise Tenant of the circumstances giving rise to the claim within ten (10) business days after they arise, the estimated cost that Tenant can pay as that time to effect any available remedy to eliminate or reduce such delay (for example, overtime work), the cumulative total number of Permitted Expansion Force Majeure Delays and Tenant Expansion Delays through the date of each event.

(h) Landlord must perform the Landlord's Expansion Work in accordance with the Approved Expansion Base Building Plans and the Approved Expansion Leasehold Improvements Plans and in a good and workmanlike manner, using new materials, and in accordance with all applicable laws, ordinances, rules, and regulations, including without limitation, ADA (as it exists at the time) and all applicable environmental laws as interpreted and enforced by the governmental bodies having jurisdiction thereof at the time of construction. Tenant's taking possession of any portion of the Expansion Building will be conclusive evidence that such portion of the Expansion Building was in good order and satisfactory condition, and that all of Landlord's Expansion Work in or to such portion of the Expansion Building was satisfactorily completed, when Tenant took possession, except as to any patent defects or uncompleted items identified on a punch list (the "**Expansion Punch List**") prepared by Tenant's Representative after an inspection of the Expansion Building by

both Tenant's Representative and Landlord's Representative (unless Landlord's Representative fails to attend an inspection scheduled by Tenant's Representative, with Tenant acknowledging that Tenant's Representative must cooperate with Landlord's Representative in attempting to establish a mutually-acceptable date and time of inspection) made within thirty (30) days after Tenant takes possession, and except as to any latent defects in Landlord's Expansion Work. Landlord will not be responsible for any items of damage caused by Tenant, its agents, independent contractors or suppliers. No promises to construct, alter, remodel or improve the Expansion Building, and no representations concerning the condition of the Expansion Building, have been made by Landlord to Tenant other than as may be expressly stated in this Lease.

(i) Landlord appoints Landlord's Representative to act for Landlord in all matters covered by this *Section 18*. Tenant appoints Tenant's Representative to act for Tenant in all matters covered by this *Section 18*. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this *Section 18* will be made to Landlord's Representative or Tenant's Representative, as the case may be. Tenant will not make any inquiries of or requests to, and will not give any instructions or authorizations to, any other employee or agent of Landlord, including Landlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this *Section 18*. Either party may change its representative at any time by three days' prior written notice to the other party. Landlord and Tenant acknowledge that they must work together cooperatively in order to design the Expansion Building and therefore agree to act reasonably and in good faith in such design process.

(j) Upon Tenant's approval of the Tenant's Expansion Cost Proposal, this Lease will automatically be amended as follows (with Landlord and Tenant each agreeing to execute a written agreement confirming these amendments upon delivery of such an amendment to such party by the other party):

(I) The Term of this Lease will be extended so that it ends on the day before the tenth (10th) anniversary of the date of Substantial Completion of the Expansion Building (the "**Expansion Commencement Date**"). The options to extend the Term of this Lease granted in *Section 2.5* above will remain in full force and effect and may be exercised at the end of the Term of this Lease, as so extended, subject to the notice and other requirements of *Section 2.5*. Any exercise of the option to extend will apply to and include both the Original Building and the Expansion Building.

(II) The Basic Rent will be as follows:

(A) for the Original Building, the Original Basic Rent will be the same as provided in *Section 4.1* above for the number of years which represents the balance of the Original Term as defined in *Section 1.1* above. Thereafter, the Original Basic Rent will increase on the first day after the original expiration date of the Original Term to an amount equal to one hundred twelve and one-half percent (112.5%) of the Original Basic Rent in effect for the immediately preceding period and will increase every fifth (5th) anniversary of the original expiration date of the Original Term through the end of the then-existing initial term (i.e., excluding the renewal terms) to an amount equal to one hundred twelve and one-half percent (112.5%) of the Original Basic Rent in effect for the immediately preceding period. For example, if the Original Basic Rent were $128,244.62 per month, then for the period beginning on the day after the original expiration date of the Original Term and extending for the lesser of five (5) years or the date of the expiration of the then-existing initial term, the Basic Rent would be $144,275.19.

(B) for the Expansion Building, the monthly rent (the "**Expansion Basic Rent**") will be equal to the amount determined by multiplying the Expansion Costs (up to or equal to the Approved Expansion Costs) by 11.4% and then dividing the result thus obtained by twelve (12).

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first set forth above.

Landlord: **OPUS SOUTH CORPORATION**, a Florida corporation	**Tenant:** **ADS ALLIANCE DATA SYSTEMS, INC.**, a Delaware corporation
By: _____	By: _____
Neil J. Rauenhorst, President	Its: _____
	And: _____
	Its: _____

STATE OF)§
) §
COUNTY OF)§

The foregoing instrument was acknowledged before me this day of January, 1998 by Neil J. Rauenhorst as President of Opus South Corporation, a Texas corporation.

Witness my hand and official seal.

_____

Notary Public

My commission expires:

_____

STATE OF)§
) §
COUNTY OF)§

The foregoing instrument was acknowledged before me this day of January, 1998 by as and as of ADS Alliance Data Systems, Inc., a Delaware corporation.

Witness my hand and official seal.

_____

Notary Public

My commission expires:

_____

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

BEING a parcel or tract of land situated in the City of Dallas, Collin County, Texas, and being part of the John Clay Survey, Abstract 223, and being part of Phase I, U.T.D. Synergy Park, an Industrial Addition to the City of Dallas, filed for record in Cabinet F, Page 483 and 484 of the Deed Records of Collin County, Texas; and being part of the tract of land conveyed to the Board of Regents, the University of Texas System as recorded in Volume 835, Page 713 of the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at an Iron rod on the west right of way line of Waterview Parkway (120 feet wide) and the northeast corner of the Smith/Allen Matuschka—One Tract and the southeast corner of the herein described tract;

THENCE South 90 degrees 00 minutes 00 seconds West a distance of 700.39 feet following the north line of the Smith/Allen Matuschka—One tract to an iron rod found for corner, said iron rod being in the easterly line of Texas A & M University System tract;

THENCE North 00 degrees 12 minutes 12 seconds West a distance of 642.68 feet following the east line of the Texas A & M System tract to the intersection with the southwest corner of the Intervoice tract and an iron rod found for corner;

THENCE North 90 degrees 00 minutes 00 seconds East a distance of 700.39 feet following the south line of the Intervoice tract to an iron rod found for corner in the westerly right of way line of Waterview Parkway, said point being the southeast corner of the Intervoice tract;

THENCE South 00 degrees 12 minutes 12 seconds East, a distance of 642.68 feet following the westerly right of way line of Waterview Parkway to the Point of Beginning and containing 450,125 square feet or 10.3334 acres, more or less.

EXHIBIT B

BASE BUILDING SPECIFICATIONS

EXHIBIT C

BASE BUILDING/TENANT MATRIX

EXHIBIT D

MATTERS AFFECTING LANDLORD'S TITLE

1. Restrictive covenants recorded in Volume 1959, Page 755, Land Records of Collin County, Texas.

2. Restrictive covenants recorded in Volume 2007, Page 475, Land Records of Collin County, Texas.

3. 12.5' water main easement granted by Board of Regents of the University of Texas Systems to City of Richardson, filed 03/25/77, recorded in Volume 1042, Page 840, Deed Records of Collin County, Texas, and as shown on survey of BSM Engineers, Inc., certified to by Arthur F. Beck, R.P.L.S. #2130, dated 12/19/97, And as shown on plat recorded in Volume F, Page 483, Map Records of Collin County, Texas.

4. Easement granted by Board of Regents of the University of Texas Systems to Dallas Power & Light Company and Southwestern Bell Telephone Company, recorded in Volume 1444, Page 555, Land Records of Collin County, Texas, and as shown on survey of BSM Engineers, Inc., certified to by Arthur P. Beck, R.P.L.S. #2130, dated 12/19/97, And as shown on plat recorded in Volume F, Page 483, Map Records of Collin County, Texas.

5. Easement granted by Board of Regents of the University of Texas Systems to City of Dallas, filed 04/09/86, recorded in Volume 2343, page 314, Land Records of Collin County, Texas, and as shown on survey of BSM Engineers, Inc., certified to by Arthur F. Beck, R.P.L.S. #2130, dated 12/19/97.

6. Easement granted by Board of Regents of the University of Texas Systems to Texas Utilities Electric Company, filed 10/06/97, cc#97-0084664, Land Records of Collin County, Texas, and as shown on survey of BSM Engineers, Inc., certified to by Arthur F. Beck, R.P.L.S. #2130, dated 12/19/97.

EXHIBIT E

MEMORANDUM OF LEASE

This Memorandum of Lease is dated as of January , 1998 and is by and between Opus South Corporation, a Florida corporation ("**Landlord**") and ADS Alliance Data Systems, Inc., a Delaware corporation ("**Tenant**").

R E C I T A L S

(7) Landlord is the owner of that certain property described on *Exhibit A* attached to and made a part of this Memorandum of Lease for all purposes (the "**Property**").

(8) Effective as of the same date as the date of this Memorandum of Lease, Landlord and Tenant entered into that certain Build-to-Suit Net Lease (the "**Lease**") covering the entire Property.

(9) Tenant and Landlord wish to record this Memorandum of Lease in order to evidence the existence of the Lease.

I N F O R M A T I O N

(1) *Primary Term:* Tenant has leased the entire Property from Landlord for a period of approximately 11 years commencing on the date set forth in the Lease and ending on the Expiration Date, as defined in the Lease.

(2) *Renewal Options:* Tenant has two (2) five (5)-year renewal options, as more fully set forth in the Lease.

(3) *Initial Construction:* Landlord has covenanted and agreed to construct a building on the Property for Tenant within the time periods and in accordance with the terms of the Lease.

(4)

Expansion Option: During the initial 11-year term, Tenant has the right to require that Landlord construct an additional building for Tenant, as more fully set forth in the Lease.

(5) *Quiet Possession:* Landlord has covenanted and agreed that Tenant will have quiet and peaceful possession of the Property during the entire term of the Lease, and such possession will not be disturbed by Landlord or anyone claiming by, through or under Landlord.

(6) *Interpretation.* Landlord and Tenant have entered into this Memorandum of Lease in order that third parties may have notice of the existence of the Lease and some of its specific provisions. This Memorandum of Lease is not a complete summary of the Lease, all of the terms, covenants, and conditions of which are made apart of this Memorandum of Lease as though fully set forth in this Memorandum of Lease. This Memorandum of Lease is not intended to amend, modify, or otherwise change the terms and conditions of the Lease. In the event of a conflict between this Memorandum of Lease and the Lease, the Lease controls.

Landlord:
OPUS SOUTH CORPORATION, a Florida corporation
By: _____
Neil J. Rauenhorst, President

Tenant:
ADS ALLIANCE DATA SYSTEMS, INC., a Delaware corporation
By: _____
Its: _____

STATE OF)
) §
COUNTY OF)

The foregoing instrument was acknowledged before me this day of , 1998 by Neil J. Rauenhorst as President of Opus South Corporation, a Texas corporation.

Witness my hand and official seal.

_____
Notary Public

My commission expires:

_____

STATE OF)§
) §
COUNTY OF)§

The foregoing instrument was acknowledged before me this day of , 1998 by as and as of ADS Alliance Data Systems, Inc., a Delaware corporation.

Witness my hand and official seal.

_____
Notary Public

My commission expires:

_____

EXHIBIT F

NDA

EXHIBIT G

LEASE GUARANTY

THIS LEASE GUARANTY (this "**Guaranty**") is given by **ALLIANCE DATA SYSTEMS CORPORATION**, a Delaware corporation ("**Guarantor**"), to **OPUS SOUTH CORPORATION**, a Florida corporation ("**Landlord**"), with respect to that certain Build-to-Suit Net Lease dated January , 1998 (the "**Lease**") by and between Landlord and ADS Alliance Data Systems, Inc., a Delaware corporation ("**Tenant**"), under which Tenant has leased from Landlord the land in Richardson, Texas that is legally described on *Exhibit A* attached hereto and all improvements thereon.

In order to induce Landlord to execute the Lease and for other good and valuable consideration, the receipt and sufficiency of which Guarantor acknowledges, Guarantor promises and agrees as follows:

1. Guarantor absolutely, unconditionally and irrevocably guarantees the payment and performance of, and agrees to pay and perform as a primary obligor, all of Tenant's covenants, obligations, liabilities and duties (including, without limitation, payment of rent and all other amounts required to be paid by Tenant) under the Lease (the "**Guaranteed Obligations**"), as if Guarantor had executed the Lease as Tenant.

2. Guarantor's obligations under this Guaranty are primary and independent of Tenant's obligations. Guarantor agrees that Landlord will not be required first to enforce against Tenant or any other person any Guaranteed Obligations before seeking enforcement against Guarantor. Landlord may bring and maintain an action against Guarantor to enforce any Guaranteed Obligations without joining Tenant or any other person (including, without limitation, any other guarantor) in such action. Landlord may, however, join Guarantor in any

action commenced by Landlord against Tenant to enforce any Guaranteed Obligations and Guarantor waives any demand by Landlord or any prior action by Landlord against Tenant.

3. Guarantor's obligations under this Guaranty will remain in full force and effect and will not be affected in any way by: (a) any forbearance, indulgence, compromise, settlement or variation of terms which may be extended to Tenant by Landlord; (b) any alteration of the Lease by the parties, whether prior or subsequent to Lease execution; (c) any renewal, extension, modification or amendment of the Lease; (d) any subletting of the premises demised under the Lease or any assignment of Tenant's interest in the Lease; (e) any termination of the Lease to the extent that Tenant remains liable under the Lease after such termination; or (f) the release by Landlord of any party (other than Guarantor) obligated for the Guaranteed Obligations or Landlord's acquisition, release, return or misapplication of any other collateral (including, without limitation, any other guaranties) given now or later as additional security for the Guaranteed Obligations. Guarantor waives notice of any of the above and agrees that Guarantor will remain liable for the Guaranteed Obligations as they may be so altered, renewed, extended, modified, amended or assigned. Guarantor also waives notice of acceptance of this Guaranty and all other notices in connection with this Guaranty or the Guaranteed Obligations, including notices of default by Tenant under the Lease, and waives diligence, presentment and suit by Landlord in the enforcement of any Guaranteed Obligations.

4. Guarantor's obligations under this Guaranty will remain in full force and effect and will not be affected in any way by: (a) the release or discharge of Tenant in any insolvency, receivership, bankruptcy or other proceedings; (b) the impairment, limitation or modification of the liability of

Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease, resulting from the operation of any present or future provision of the Federal Bankruptcy Code or other statute or from the decision in any court; (c) the rejection or disaffirmance of the Lease in any such proceeding; or (d) Tenant's dissolution or other termination or any disability or other defense of Tenant.

5. Guarantor agrees to pay the reasonable attorneys' fees and expenses incurred by Landlord in successfully enforcing Guarantor's obligations under this Guaranty in any action or proceeding to which Landlord is a party. In any action brought under this Guaranty, Guarantor submits to the jurisdiction to the courts of the State of Texas, and to venue in the District Court of Dallas County, Texas.

6. This Guaranty will be binding on Guarantor and its successors and assigns and will inure to the benefit of Landlord and its successors and assigns.

7. Notwithstanding anything to the contrary set forth elsewhere in this Guaranty, in the event the Release Conditions, as defined in the Lease, are met, then Guarantor will automatically be released from its obligations under this Guaranty effective as of the date of such assignment or subletting, and (b) Guarantor will at all times be entitled to assert as a defense to any obligation under this Guaranty that Tenant has a defense to the guaranteed obligation under the terms of the Lease.

Executed this day of January, 1998.

GUARANTOR:

ATTEST:

ALLIANCE DATA SYSTEMS CORPORATION,
a Delaware corporation

By:

By:

EXHIBIT H

2-STORY PLAN

EXHIBIT I

3-STORY PLAN

EXHIBIT J

EXPANSION COST SUMMARY

SCHEDULE OF COST FOR THE EXPANSION BUILDING
OPTION B NO LAND

Land:		
Soil Test	—	
Environmental	—	
Title Fee	—	
Sub-Total for Land	—	
Building:		
Base Building	—	
Site Development	—	
Tenant Improvements	—	
Design Fee	—	
Sub-Total for Building		—

Development:	
Broker Fee (Market)	—
Legal	—
Development (5% of total project cost)	—
Contingency	—
Construction Interest	—
Bank Fees	—
Sub-Total for Development	—
Total Project Cost:	—
Rent Calculation:	
Expansion Costs × 11.4%-Rent	—
Total Rent	—

EXHIBIT K

CORE BUILDING SYSTEMS

— Foundation System

— Structural Framing System

— Core Plumbing Systems

— Exterior Envelope Back-up System (Framing, Sheathing, and Insulation)

— Roofing System

— Core Building Fire Sprinkler System

— Core Plumbing HVAC System (Central plant, main supply loop ductwork; perimeter zone boxes, and interior VAV boxes and controls)

— Electrical System (Wiring of all base building HVAC equipment, elevators, exterior lighting, main switchgear, distribution to electrical panel boards on each floor, and lighting of interior common areas with exit and emergency lighting as required by code)

— Minimum Code Requirements (Stairs, Restroom Count, and Elevators)

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FINAL AGREEMENT CONCERNING RENT COMMENCEMENT AND CONSTRUCTION COSTS AND LIQUIDATED DAMAGES

This Final Agreement Concerning Rent Commencement and Construction Costs and Liquidated Damages (this "**Agreement**") is executed by and between Oaklawn Alliance, L.L.C., a Delaware limited

liability company ("**Landlord**") and ADS Alliance Data Systems, Inc., a Delaware corporation ("**Tenant**") and is effective as of the last day accompanying the signature of Original Landlord, Landlord, and Tenant below. Original Landlord, Guarantor, and Mortgagee (all as defined below) are executing this Agreement for the purposes indicated in this Agreement.

RECITALS

A. Effective as of January 29, 1998, Opus South Corporation, a Florida corporation ("**Original Landlord**") and Tenant entered into that certain Build-To-Suit Net Lease (the "**Lease**") covering certain property located in the City of Dallas, Collin County, Texas (the "**Land**").

B. The Lease was guaranteed by Alliance Data Systems Corporation, a Delaware corporation ("**Guarantor**") pursuant to the terms of that certain Lease Guaranty dated the same date as the Lease (the "**Guaranty**").

C. A Memorandum of Lease was executed the same day as the Lease and recorded on January 30, 1998 in Volume 4091, Page 1447 of the real property records of Collin County, Texas.

D. Original Landlord, Tenant, and NationsBank, N.A., a national banking association ("**Mortgagee**") entered into that certain Subordination, Non-disturbance and Attornment Agreement dated April 3, 1998 and recorded on April 7, 1998 under Volume 4138, Page 1032 of the real property records of Collin County, Texas.

E. Under the terms of the Lease, Original Landlord, as the Landlord under the Lease, was required to construct for Tenant the Original Base Building (as defined in the Lease) on the Land. Under the terms of the Lease, Tenant had to pay for certain cost overruns and Original Landlord, as the Landlord under the Lease, had to pay certain liquidated damages in the event that construction of the Original Base Building was not completed on or before certain dates. The Land together with the Original Base Building is referred to in this Agreement as the "**Demised Premises.**"

F. On December 3, 1998, Original Landlord transferred the Demised Premises to Landlord.

G. Original Landlord, Landlord, and Tenant have been working together to establish the Original Commencement Date under the Lease, the amount of any cost overruns for which Tenant is obligated to pay Landlord, and the amount of any liquidated damages due to Tenant for late delivery. The purpose of this Agreement is to memorialize their understanding.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the matters set forth in the Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Original Landlord, Landlord, and Tenant hereby agree as follows:

1. **ORIGINAL COMMENCEMENT DATE:** The Original Commencement Date of the Lease is November 4, 1998. As provided in Section 1.1 of the Lease, the Term expires at midnight on November 30, 2009, unless sooner terminated or unless renewed or extended as set forth in the Lease.

2. **OVERRUN AMOUNT AND LIQUIDATED AMOUNT:** The amount of cost overruns for which Tenant is responsible is $263,575.00 (the "**Overrun Amount**") and the amount of liquidated damages to which Tenant is entitled is $125,500.00 (the "**Liquidated Amount**").

3. **PARTIES TO WHOM PAYMENT OF THE OVERRUN AMOUNT AND THE LIQUIDATED AMOUNT ARE DUE:** Original Landlord performed the construction work and so Original Landlord believes that Original Landlord is entitled to receive the Overrun Amount. Landlord hereby agrees that Original Landlord is entitled to receive the Overrun Amount. Since Original

Landlord is receiving the Overrun Amount, Landlord believes that Original Landlord should pay Tenant the Liquidated Amount. Tenant is willing to accept the Liquidated Amount from Original Landlord, but such agreement to allow Original Landlord to do so does not in any way release Landlord from the obligation to do so unless and until Tenant actually receives the full amount of the Liquidated Amount. If for any reason Original Landlord does not pay the full amount of the Liquidated Amount within the time period specified in *Paragraph 4* below, then the obligation to pay the Liquidated Amount will constitute a joint and several obligation of Original Landlord and Landlord and Tenant will be entitled to demand payment from both of them and to offset the amount due to Tenant from all Rent and other amounts accruing under the Lease.

4. **TIMING OF PAYMENT OF THE OVERRUN AMOUNT AND THE LIQUIDATED AMOUNT:** Original Landlord and Tenant hereby covenant and agree that on or before Friday, May 28, 1999, they will each present the other with a check drawn on immediately-available funds in the amount due to the other, so that Tenant will present Original Landlord with a check for $263,575.00 and Original Landlord will present Tenant with a check in the amount of $125,500.00.

5. **LANDLORD'S REPRESENTATIONS, WARRANTIES, AND RELEASES:** Landlord hereby (a) confirms, represents, and warrants to Tenant that Tenant is to pay the Overrun Amount to Original Landlord and not Landlord, and (b) releases Tenant from any and all claims that Landlord might have against Tenant under the Lease for payment of the Cost Overrun, payment for any other cost overruns, and payment of Basic Rent, other payments which are due on a regular monthly basis charges, Taxes, and insurance premiums (with the exception of insurance premiums which were billed in March, 1999, about which Landlord and Tenant are currently in disagreement), *if, and only if, such claims arose on or before the date of this agreement* but whether or not such claims are now known or anticipated (collectively, "**Claims**" and individually, a "**Claim**"). Landlord acknowledges that there is no additional promise or agreement in consideration of this release. Landlord expressly acknowledges and agrees that such release is a contractual undertaking and that the agreements concerning payment settles any and all Claims by Landlord against Tenant in connection with the Lease. This release is binding upon Landlord and the heirs, executors, administrators, personal representatives, successors, and assigns of Landlord and inures to the benefit of Tenant.

6. **ORIGINAL LANDLORD'S REPRESENTATIONS, WARRANTIES, AND RELEASES:** Original Landlord is executing this Agreement in order to (a) confirm, represent, and warrant to Tenant that Tenant is to pay the Overrun Amount to Original Landlord and not Landlord, (b) confirm, represent, and warrant that Original Landlord will pay the Liquidated Amount to Tenant as and when due under the terms of *Paragraph 4* above, and (c) release Tenant from any and all claims, *other than the claim for the cost overrun*, that Original Landlord might have against Tenant under the Lease for payment of Basic Rent and other charges, including without limitation, Taxes and insurance premiums, whether such claims now exist or hereafter arise and whether or not such claims are now known or anticipated (collectively, "**Claims**" and individually, a "**Claim**"). Original Landlord acknowledges that there is no additional promise or agreement in consideration of this release. Original Landlord expressly acknowledges and agrees that such release is a contractual undertaking and that the agreements concerning payment settles any and all Claims by Original Landlord against Tenant in connection with the Lease. This release is binding upon Original Landlord and the heirs, executors, administrators, personal representatives, successors, and assigns of

Original Landlord and inures to the benefit of Tenant.

7. **TENANT'S RELEASES:** Tenant hereby releases Original Landlord and Landlord from any and all claims that Tenant might have against Original Landlord and Landlord for payment of any liquidated damages under Section 3.6 of the Lease *other than* the Liquidated Amount.

8. **ESTABLISHMENT OF THE NUMBER OF RENTABLE SQUARE FEET IN THE ORIGINAL BUILDING:** Landlord and Tenant hereby confirm that the Original Building contains 114,419 Rentable Square Feet.

9. **RATIFICATION AND CONFIRMATION OF THE LEASE:** Landlord and Tenant hereby ratify and confirm that they are bound by all of the terms of the Lease, including, without limitation, the terms of Section 18 of the Lease. Landlord further acknowledges that any claims which Tenant might have under the Lease concerning the Original Base Building and Original Leasehold Improvements constitute claims against Landlord even though Landlord was not the Landlord at the time the Original Base Building and the Original Leasehold Improvements were constructed and even though Tenant is obligated to pay the Cost Overrun to Original Landlord.

10. **GUARANTOR'S EXECUTION:** Guarantor is executing this Agreement for the purpose of confirming that the execution and delivery of this Agreement does not in any way terminate or limit Guarantor's obligations under the Guaranty.

11. **MORTGAGEE'S EXECUTION:** Mortgagee is executing this Agreement for the purpose of evidencing its consent to and agreement that if Mortgagee becomes the Landlord under the Lease, Mortgagee will be bound by the terms and provisions of this Agreement; provided, however, that under no circumstances is Mortgagee obligated to pay the Liquidated Amount to Tenant.

12. **COUNTERPARTS:** This Agreement may be executed in multiple counterparts, all of which, when taken together, will constitute one (1) original.

LANDLORD: **OAKLAWN ALLIANCE, L.L.C.,**
a Delaware limited liability company

By: /s/ NEIL RAUENHORST

Name: Neil Rauenhorst

Title: President & CEO

Date of Signature: 5/28/99

TENANT: **ADS ALLIANCE DATA SYSTEMS, INC.,**
a Delaware corporation

By: /s/ JAMES E. ANDERSON

Name: James E. Anderson

Title: Exec. V.P. & CEO

Date of Signature: 6-14-99

ORIGINAL LANDLORD: **OPUS SOUTH CORPORATION,**
a Florida corporation

By: /s/ NEIL RAUENHORST

Name: Neil Rauenhorst

Title: President & CEO

Date of Signature: 5/28/99

GUARANTOR: **ALLIANCE DATA SYSTEMS, CORPORATION,**
a Delaware corporation

By: /s/ JAMES E. ANDERSON

Name: James E. Anderson

Title: Exec. V.P. & CEO

Date of Signature: 6-14-99

MORTGAGEE: **NATIONSBANK, N.A.,**
a national banking association

By: /s/ CHARLIE S. FLINT

Name: Charlie S. Flint

Title: Senior Vice President

FIRST AMENDMENT TO BUILD-TO-SUIT NET LEASE

This First Amendment to Build-to-Suit Net Lease (this "*First Amendment*") is executed by and between Oaklawn Alliance, L.L.C., a Delaware limited liability company ("*Landlord*") and ADS Alliance Data Systems, Inc., a Delaware corporation ("*Tenant*") and is effective as of the last day accompanying the signature of Landlord and Tenant below. Guarantor and Mortgagee (both as defined below) are executing this First Amendment for the purposes indicated in this First Amendment.

RECITALS

A. Effective as of January 29, 1998, Opus South Corporation, a Florida corporation ("*Original Landlord*") and Tenant entered into that certain Build-To-Suit Net Lease (the "*Lease*") covering certain property located in the City of Dallas, Collin County, Texas (the "Land"). The Land together with the Original Base Building (as defined in the Lease) is referred to in this First Amendment as the "*Premises*."

B. The Lease was guaranteed by Alliance Data Systems Corporation, a Delaware corporation ("*Guarantor*") pursuant to the terms of that certain Lease Guaranty dated the same date as the Lease (the "Guaranty").

C. A Memorandum of Lease was executed the same day as the Lease and recorded on January 30, 1998 in Volume 4091, Page 1447 of the real property records of Collin County, Texas.

D. Original Landlord, Tenant, and NationsBank, N.A., a national banking association ("*Mortgagee*") entered into that certain Subordination, Non-disturbance and Attornment Agreement dated April 3, 1998 and recorded on April 7, 1998 at Volume 4138, Page 1032 of the real property records of Collin County, Texas (the "*SNDA*").

E. On December 3, 1998, Original Landlord transferred the Premises to Landlord.

F. Landlord and Tenant wish to amend the Lease in matters concerning assignment and subletting and construction of a second building. The purpose of this First Amendment is to set forth the agreement of Landlord and Tenant in such regard.

AGREEMENTS

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

1. *Defined Terms:*

a. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Amortized Amount*" means the lesser of (a) the excess of the actual cost of the Expansion Leasehold Improvements over the Expansion Leasehold Improvements Allowance (as that term is defined below), or (b) an amount determined by multiplying $5.00 by the number of Rentable Square Feet in the Expansion Building (subject to the terms of *Section 18(f)* below).

b. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Amortization Increase Amount*" is an amount determined by amortizing, at a rate of nine percent (9%) per annum, the Amortized Amount over the number of months in the Lease Term beginning with the month next succeeding the month in which Tenant must deliver to Landlord Tenant's Election Notice (as that term is defined below) and ending on the last day of the Lease Term.

c. Landlord and Tenant hereby amend the definition of "Approved Expansion Base Building Plans" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Approved Expansion Base Building and Garage Plans*" has the meaning set forth in Section 18(b).

d. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Expansion Allowance*" is the sum of the Expansion Leasehold Improvements Allowance and the Parking Garage Allowance.

e. Landlord and Tenant hereby amend the definition of "Expansion Base Building Plans" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Expansion Base Building and Garage Plans*" has the meaning set forth in *Section 18(b)*.

f. Landlord and Tenant hereby amend the definition of "Expansion Costs" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Expansion Costs*" means the total cost of preparing the Expansion Leasehold Improvement Plans and the Garage Plans, obtaining all permits for, and constructing and installing, the Expansion Leasehold Improvements (in the Expansion Base Building) and the Parking Garage, and providing any services during construction of the Expansion Leasehold Improvements and the Parking Garage (such as electricity and other utilities and refuse removal), but specifically excluding any acquisition or carrying costs for any portion of the Land, it being understood that those costs are included in the Original Basic Rent for the Original Premises. Landlord and Tenant further agree that Expansion Costs will cover (a) the cost of general conditions and insurance, not to exceed three percent (3%) of the cost of the construction work, excluding soft costs, (b) overhead, not to exceed three percent (3%) of the cost of the construction work, excluding soft costs and the general conditions and insurance and (c) a general contractor's fee payable to Landlord in an amount equal to five percent (5%) of the construction work, excluding soft costs and overhead.

g. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Expansion Deadline Extension*" has the meaning set forth in *Section 18(b)*.

h. Landlord and Tenant hereby amend *Section 1.1* of the Lease to add the following definition:

"*Expansion Leasehold Improvements Allowance*" is an amount determined by multiplying the Rentable Square Feet in the Expansion Building (subject to the terms of *Section 18(f)* below) by $20.00.

i. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Expansion Plan Approval Delay*" has the meaning set forth in *Section 18(b)*.

j. Landlord and Tenant hereby amend the definition of "Landlord's Notice Address" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Landlord's Notice Address*" means:

Oaklawn Alliance, L.L.C.
Attn: Lamar E. Lawson
12225 Greenville Avenue, Suite 900
Dallas, Texas 75240

With Copy To:
Opus South Corporation

Attn: Neil J. Rauenhorst
4200 West Cypress Street, Suite 444
Tampa, Florida 33607

With Copy To:
Opus Corporation
Attn: Legal Department
10350 Bren Road West
Minnetonka, Minnesota 55343

With Copy To:
Andrews & Barth, P.C.
8235 Douglas Avenue, Suite 1120
Dallas, Texas 75225
Attn: Stanley K. Barth

1. Landlord and Tenant hereby amend the definition of "Landlord's Rent Address" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Landlord's Rent Address*" means:

Oaklawn Alliance, L.L.C.
c/o Opus South Management Corporation
4200 West Cypress Street
Suite 445
Tampa, Florida 33607

m. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Parking Garage*" has the meaning set forth in *Section 18(a)*.

n. Landlord and Tenant hereby amend Section 1.1 of the Lease to add the following definition:

"*Parking Garage Allowance*" means $1,477,963.00.

o. Landlord and Tenant hereby amend the definition of "Release Conditions" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Release Conditions*" means all of the following conditions have been met:

(a) the assignee of this Lease or sublessee of either all of the Original Building or all of the Expansion Building, as the case may be, meets *one* of the following standards:

(i) has a net worth (excluding goodwill) of at least $75 million.

(ii) all of the following are true: (A) such assignee or sublessee has experienced during each of the three (3) periods of twelve (12) months each which immediately precede the effective date of such assignment or subletting (with each such twelve (12)-month period being referred to as a "*Comparison Year*" EBTDA (as defined below) equal or greater than an amount equal to five (5) times the annual obligation in Basic Rent of the portion of the Premises covered by such assignment or subletting (the *"Annual EBTDA Requirement*"), (B) such assignee or sublessee meets the Annualization Standard (also as defined below) for the three (3) month period immediately preceding the effective date of such assignment or subletting (which period of time is referred to as the "*Base Period*" and the equivalent periods of time during each of the three (3) immediately-preceding Comparison Years is referred to as the "*Comparison Periods*"), and (C) such assignee or sublessee certifies to Landlord in writing that it has not taken or allowed and does not, as of the effective date of such assignment or subletting, intend to take or allow any action which would constitute

an Event of Default under *subsection 15.2(c)* or *subsection 15.2(d)* of this Lease. The term "*EBTDA*" means Earnings before Taxes, Depreciation, and Amortization. The term "*Annualization Standard*" means that (i) each of the three (3) Comparison Periods is analyzed to see what proportion of the EBTDA for the Comparison Year is applicable to such Comparison Period, (ii) the proportional amounts for each of the Comparison Periods are averaged (the "*Base Comparison Average*"), and (iii) the EBTDA for the-Base Period is greater than or equal to the Annual EBTDA Requirement for the twelve (12)-month period ending on the last day of the Base Period multiplied by the Base Comparison Average. So, for example, if the annual obligation in Basic Rent of the portion of the Premises covered by such assignment or subletting were $1.5 million, then the proposed assignee or sublessee would need to have had an EBTDA in each of the immediately preceding three (3) twelve (12) month periods equal to $7.5 million. In addition, if the Base Period were January, February, and March of a particular year, then the Comparison Periods would be the same months during each of the three (3) immediately-preceding twelve (12) month periods. If the EBTDA for the first, second, and third Comparison Periods were thirty percent (30%), twenty-eight percent (28%), and thirty two percent (32%), respectively, of their respective annual EBTDA, then the average of the three would be thirty percent (30%) and the EBTDA for the Base Period would, under such example, need to be at least $2.25 million.

(iii) satisfies some other commercially reasonable alternative measurement proposed by Tenant and approved by Landlord, which approval cannot be unreasonably withheld, conditioned, or delayed.

(b) if such assignee or sublessee is a subsidiary of any entity, Tenant has obtained and delivered to Landlord a guaranty by such parent entity of the assignee's or sublessee's obligations under this Lease, which guaranty agreement must be substantially similar to the form attached to this Lease as *Exhibit G* or another form reasonably acceptable to Landlord, and

(c) in the event Tenant subleases either all of the Original Building or all of the Expansion Building, or both (it being understood and agreed that this condition does not apply in the case of an assignment), Tenant has obtained and delivered to Landlord a written agreement for the express benefit of Landlord from such sublessee assuming the obligations of Tenant under this Lease relating to or arising out of the use and occupancy of the Original Building or the Expansion Building, or both, as the case may be, from and after the effective date of such sublease; however, in the event such sublessee expressly assumes less than all such obligations, the release will apply to the obligations which are assumed by such sublessee in writing for the express benefit of Landlord, but not to the ones that are not so assumed.

p. Landlord and Tenant hereby amend the definition of "Substantially Completed", "Substantial Completion" and "Substantially Complete" in Section 1.1 of the Lease by deleting it in its entirety and replacing it with the following:

"*Substantially Completed*" or "*Substantial Completion*" or "*Substantially Complete*" means that (i) the applicable portion of the Premises is broom clean, free of construction tools and materials, and Landlord's Original Work has been completed according to the Approved Original Base Building Plans and the Approved Original Leasehold Improvements Plans or Landlord's Expansion Work has been completed according to the Approved Expansion Base Building and Garage Plans and the Approved Expansion Leasehold Improvements Plans, as the case may be, with only minor punch list items that

will not interfere to more than a minor extent with Tenant's use and enjoyment of the Original Building, the Expansion Building, or the Parking Garage (herein referred to as "*Punch List Items*") remaining to be completed or corrected pursuant to the terms of this Lease; (ii) a certificate of occupancy for the entire Original Building, Expansion Building, and Parking Garage (which certificate of occupancy may only be conditioned upon final installation of landscaping or completion of any Punch List Item so long as such condition to the issuance of the certificate of occupancy does not adversely affect Tenant's occupancy and operation of its business activities within the Original Building, Expansion Building, and Parking Garage) has been issued or, alternatively, if certificates of occupancy are obtained for less than the entirety of the applicable portion of the Original Building, Expansion Building, and Parking Garage, then certificates of occupancy have been issued for all portions of the Original Building, Expansion Building, and Parking Garage; provided, however, that if the only condition to the issuance of any certificate of occupancy is the performance of work that *Tenant* is required to perform under this Lease, then such certificate of occupancy will be deemed issued for all purposes under this Lease, and (iii) that all utilities called for in the Approved Original Base Building Plans or Approved Expansion Base Building and Garage Plans, as the case may be, or the Approved Original Leasehold Improvements Plans or the Approved Expansion Leasehold Improvements Plans, as the case may be, are installed and operable with all hook-up, tap or similar fees paid. For the purpose of resolving any disagreement between Landlord and Tenant as to whether or not any item relating to the Expansion Building and the Parking Garage constitutes a Punch List Item as set forth in item (i) above, on or before May 15, 2000, Landlord and Tenant will each appoint a licensed architect who has had at least five (5) years' full-time commercial architectural experience in the Dallas, Texas market and provide written notice to the other party identifying the name, address and telephone number of the architect so appointed. If no objection is made as to the qualifications of the architect so identified within five (5) *business* days following such notice (it being agreed that any objection shall be limited to whether or not the architect has had at least five (5) years' full-time commercial architectural experience), then any objection to such architect based on qualifications shall be waived, and it shall be conclusively deemed that such architect meets the qualifications set forth herein. Each architect so appointed will be instructed to (i) contact the other architect and, together with the other architect, select, by no later than June 1, 2000, a third architect meeting the qualifications set forth above which architect must not have acted for either Landlord or Tenant (or any parent, affiliate, or subsidiary of Landlord or Tenant) in any capacity, and (ii) once selected, provide written notice to Landlord and Tenant of the name, address and telephone number of the third architect. Either Landlord or Tenant may raise an objection as to the qualification of the third architect (it being agreed that any objection shall be limited to whether or not the architect has had at least five (5) years full-time commercial architectural experience and whether or not the architect has acted for either Landlord or Tenant or any parent, affiliate, or subsidiary of Landlord or Tenant), but such objection shall be waived unless expressed in writing to the other party within five (5) *business* days after the third architect is identified in writing to the Landlord or Tenant, as the case may be. In the event either Landlord or Tenant fails to appoint a qualified architect by May 15, 2000, and such failure continues for a period of three (3) *business* days following written notice from the other party stating such failure, the determination of Punch List Items (should there be a disagreement between Landlord and Tenant) shall be made by the architect timely appointed by the other party. If both architects are timely appointed, then their mutually agreed determination as to Punch List Items shall be binding. If the two (2) architects do not agree within three (3) *business* days following the date both are notified in writing that Landlord and Tenant were unable

to agree as to the Punch List Items, the determination as to any Punch List Items for which there has not been agreement shall be made by the third architect within two (2) *business* days following the date Landlord, Tenant, or either of the first two (2) architects notifies the third architect in writing of the items to which the first two (2) architects could not reach agreement as whether or not same constitute a Punch List Item, and such determination by the third architect shall be binding on both parties. Each architect shall be instructed to determine which items constitute Punch List Items according to generally accepted standards and criteria in the Dallas, Texas market. Each party will pay the fees and expenses of the architect appointed by such party, and they will pay equal shares of the fees and expenses of the third architect. For the purpose of item (i) above, the date of completion will not be delayed or affected by the process of determining what constitutes a Punch List Item (although the date of completion will be delayed by Landlord's failure to perform an item that is determined during the process of determining Punch List Items to *not* be a Punch List Item because it is more than a minor item that will not interfere to more than a minor extent with Tenant's use and enjoyment of the Original Building, the Expansion Building, or the Parking Garage).

2. *List of Exhibits*: Landlord and Tenant hereby amend Section 1.2 of the Lease to delete Exhibit "I" and Exhibit "J" from the list of exhibits.

3. *Assignment and Subletting*: Landlord and Tenant hereby amend Section 11.3 of the Lease by deleting it in its entirety and replacing it with the following:

General Provisions. Subject to the other terms and conditions of this *Section 11.3*, no subletting or assignment by Tenant hereunder, regardless of whether the same requires Landlord's consent, will release or discharge Tenant of or from any liability, whether past, present or future, under this Lease, and Tenant will continue fully liable hereunder. Notwithstanding the foregoing, (i) in the event Tenant assigns this Lease in its entirety or subleases the entire Premises and the Release Conditions, as defined above, are met, then Tenant and Guarantor will be automatically released from all obligations arising under this Lease from and after the date of such assignment or sublease (in the case of a sublease, such release shall be limited to the obligations of Tenant under this Lease which such sublessee assumes in writing for the benefit of Landlord), and (ii) in the event Tenant subleases either all of the Original Building or all of the Expansion Building and the Release Conditions, as defined above, are met as to such Building, then (a) this Lease will automatically be amended so as to be two (2) leases, one for each Building, with all of the terms and provisions of this Lease being divided accordingly as provided in *Section 19* of this Lease and the sublease will be deemed to be as to the entire lease for the Building which is subleased, and (b) Tenant and Guarantor will be automatically released from all obligations arising under the lease for the Building which is subleased from and after the date of such sublease (in the case of a sublease, such release shall be limited to the obligations of Tenant under this Lease which such sublessee assumes in writing for the benefit of Landlord). In any circumstances in which Tenant and Guarantor are released from liability or in which this Lease is divided into two (2) leases, Landlord, Tenant and Guarantor agree to execute an agreement confirming such release or division (or both) within ten (10) days after requested in writing to do so, although execution of such document will not be necessary for such release or division, or both, to be effective. The sublessee or assignee will agree to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease to the extent of the space sublet or assigned from and after the date of such assignment or subletting, and Tenant will deliver to Landlord promptly after execution an executed copy of each such sublease or assignment and such an agreement of compliance by each such sublessee or assignee. Consent by Landlord to any assignment of this Lease or to any subletting of the Premises will not be a

waiver of Landlord's rights under this *Section 11* as to any subsequent assignment or subletting. Any sale, assignment, mortgage, transfer or subletting of this Lease which is not in compliance with the provisions of this *Section 11* will be of no effect and void. Landlord's right to assign its interest in this Lease is unqualified. Landlord may charge Tenant up to $1,000.00 for attorneys' fees and administrative expenses incident to a review of any documentation related to any proposed assignment or subletting by Tenant.

4. *Construction of Expansion Building and Parking Garage*: Landlord and Tenant hereby amend Section 18 of the Lease by deleting it in its entirety and replacing it with the Section 18 attached to this First Amendment as *Exhibit "A."*

5. *Further Lease Amendment*. Landlord and Tenant hereby amend the Lease to add the following as a new Section 19 thereto:

19. *Further Amendment*. In the event (i) pursuant to *Section 11.3* of this Lease, this Lease is divided into two (2) leases, (ii) this Lease is terminated by Tenant, as to the Expansion Building only, pursuant to *Section 18(f)* of this Lease, or (iii) this Lease is terminated, as to the Expansion Building only, pursuant to *Section 18(j)(I)* of this Lease, then this Lease will be automatically amended as follows:

(a) So as to be two (2) leases, one (1) being for the Original Building and that portion of the Land identified as "Tract 1" on *Exhibit "H"* attached hereto; and the other being for the Expansion Building and that portion of the Land identified as "Tract 2" on *Exhibit "H"* attached hereto.

(b) The tenants and occupants respecting the Original Building and the Expansion Building, together with their employees, agents, customers, guests and invitees will have the non-exclusive right, in common with each other, to use the Parking Garage and to use all common areas (hereinafter referred to as the "*Common Areas*") such as landscaped areas, driveways, walkways, entrance ramps and similar areas intended for common use but existing outside the Original Building and the Expansion Building (Landlord will, upon written request of the tenant(s) occupying a majority of the space within either of the two (2) buildings, designate a half of the surface parking spaces and half of the spaces in the Parking Garage in closest proximity to each building for exclusive use by the occupants of such building, using the division of the Land set forth on *Exhibit "H"* as a guide). Upon written request of the tenant(s) occupying a majority of the space within either of the two (2) buildings, Landlord will be responsible for enforcing the exclusive nature of such parking as follows: (i) Landlord will arrange (through the use of stickers or other similar device) for the cars entitled to park in each parking area to be separately and easily identified by area in which they are entitled to park, (ii) Landlord will ticket each car which is improperly parked and each tenant of the buildings agrees that it will be obligated to pay the parking charges imposed against its employees or occupants of its space, and (iii) if any tenant(s) occupying a majority of the space within either of the two (2) buildings advises Landlord that the ticketing arrangement has not substantially solved the problem of improper parking, then Landlord will tow cars which are improperly parked. Landlord will have no enforcement obligations respecting the parking of cars except as set forth in the immediately-preceding run-on sentence.

(c) The Landlord will be responsible for the maintenance, replacement and repair of the Parking Garage (including the structural elements thereof) and all Common Areas, including, without limitation, all parking areas and landscaping.

(d) All costs and expenses borne by Landlord which would have been borne by Tenant had this Lease not been divided in two will be allocated one-half (1/2) to the Original Building and

one-half (1/2) to the Expansion Building. Such costs and expenses include, but are not limited to, (i) Taxes (with Landlord paying the Taxes directly to the taxing authority and the tenants paying Landlord their prorata share within thirty (30) days following receipt of Landlord's invoice with supporting documents), (ii) the costs and expenses related to maintenance, replacement, and repair of the Parking Garage (excluding the structural, elements of the Parking Garage, which shall be Landlord's obligation and not subject to reimbursement), (iii) the costs and expenses related to the Common Areas, including, without limitation, all parking areas and landscaping, and (iv) the costs and expenses of monitoring the enforcing the exclusive parking arrangement as described in *Section 19(b)* above. The tenants of the Original Building and the Expansion Building must pay their share of such amounts within thirty (30) days following receipt of Landlord's invoice with supporting documentation, or, alternatively, Landlord may estimate the tenants' proportionate share of such costs and expenses, in which event the tenants will pay such estimated sums monthly, with Landlord providing supporting documentation and reconciliations annually.

Landlord, Tenant and Guarantor agree to cooperate and negotiate in good faith with diligent efforts to cause a proper amendment to be executed addressing the matters set forth above and any additional matters that might be proper in order to effect the intents and purposes of dividing this Lease into two (2) leases.

6. *Amendment of Memorandum of Lease*: Landlord and Tenant hereby agree to execute the First Amendment to the Memorandum of Lease attached to this First Amendment as *Exhibit "B."*

7. *Exhibits*: Landlord and Tenant hereby amend the Exhibits to the Lease as follows:

a. Exhibit "H" of the Lease by deleting it in its entirety and replacing it with *Exhibit "H"* attached to and made a part of this First Amendment for all purposes (it being understood and agreed that there are no Exhibits "C," "D," "E," "F," or "G" to this First Amendment).

b. Landlord and Tenant hereby amend Exhibit "I" of the Lease by deleting it in its entirety (so that there will be no Exhibit "I" to the Lease at all).

c. Landlord and Tenant hereby amend Exhibit "J" of the Lease by deleting it in its entirety (so that there will be no Exhibit "J" to the Lease at all) Guarantor will be automatically released from all obligations arising under the Lease from and after the date of such assignment or sublease (which, in the case of a sublease, such release shall be limited to the obligations of Tenant under this Lease from and after the date of such sublease which are assumed by such sublessee in writing for the express benefit of Landlord), and (ii) in the event Tenant subleases either all of the Original Building or all of the Expansion Building and the Release Conditions, as defined in the Lease, are met as to such Building, then (a) the Lease will automatically be amended so as to be two (2) leases, one for each Building, with all of the terms and provisions of the Lease being divided accordingly and the sublease will be deemed to be as to the entire lease for the Building which is subleased, and (b) Guarantor will be automatically released from all obligations arising under the lease for the Building which is subleased from and after the date of such sublease to the extent such sublessee assumes, in writing for the expressed benefit of Landlord, the obligations of Tenant under this Lease from and after the date of such sublease. In any circumstances in which Guarantor is released from liability or in which the Lease is divided into two (2) leases, Landlord agrees to execute an agreement confirming such release or division (or both) within ten (10) days after requested in writing to do so, although execution of such document will not be necessary for such release or division to be effective. Guarantor will at all times be entitled to assert as a defense to any obligation under this Guaranty that Tenant has a defense to the guaranteed obligation under the terms of the Lease.

9. *Guarantor's Execution*: Guarantor is executing this First Amendment for the purpose of confirming (i) that the execution and delivery of this First Amendment does not in any way terminate or limit Guarantor's obligations under the Guaranty and (ii) that the Lease Guaranty is amended as provided in Section 7 of this First Amendment.

10. *Mortgagee's Execution*: Mortgagee is executing this First Amendment for the purpose of evidencing its consent to and agreement that if Mortgagee becomes the Landlord under the Lease, Mortgagee will be bound by the terms and provisions of this First Amendment.

11. Counterparts: This Agreement may be executed in multiple counterparts, all of which, when taken together, will constitute one (1) original.

LANDLORD:

OAKLAWN ALLIANCE, L.L.C.,
a Delaware limited liability company

By: /s/ NEIL RAUENHORST

Name: Neil Rauenhorst
Title: President & CEO
Date of Signature: January 14, 2000

TENANT:

ADS ALLIANCE DATA SYSTEMS, INC.,
a Delaware corporation

By: /s/ DWAYNE H. TUCKER

Name: Dwayne H. Tucker
Title: Senior Vice President
Date of Signature: 1/7/00

GUARANTOR:

ALLINCE DATA SYSTEMS CORPORATION,
a Delaware corporation

By: /s/ DWAYNE H. TUCKER

Name: Dwayne H. Tucker
Title: Senior Vice President
Date of Signature: 1/7/00

MORTGAGEE:

BANK OF AMERICA, N.A.,
a national banking association
successor to NationsBank, N.A.)

By: /s/ CHARLES S. FLINT

Name: Charles S. Flint
Title: Senior Vice President
Date of Signature: 2/14/00

EXHIBIT "A"

18. **Expansion Option.**

(a) Landlord hereby covenants and agrees to construct the following buildings on the Land: (i) an office building and surrounding Common Areas (as that term is defined below) which is substantially similar to the Original Building, in the location specified on *Exhibit "H"* to this Lease (the "*Expansion Base Building*"), (ii) Tenant Improvements to the Expansion Base Building, subject to the terms of this *Section 18* (the "*Expansion Leasehold Improvements*"), and (ii) a 198-space parking garage, subject to the terms of this *Section 18* (the "*Parking Garage*"), which Parking Garage, as well as all of the other portions of the Common Areas, shall be used solely by the occupants of the Original Building and the Expansion Base Building, and their respective employees and guests. The Expansion Base Building and the Expansion Leasehold Improvements are collectively referred to as the "*Expansion Building*" and the work of constructing the Expansion Building (including, without

limitation, the Common Areas, as defined below) and the Parking Garage are referred to as "*Landlord's Expansion Work.*"

(b) On or before January 10, 2000, Landlord will cause its architect to prepare and deliver to Tenant preliminary plans and specifications for the Expansion Base Building and the Parking Garage (the "*Expansion Base Building and Garage Plans*"), which plans must be based on an exterior appearance substantially similar to the Original Base Building. While these preliminary plans and specifications are not required to be permit-ready, they must contain a site plan, floor plan, one-quarter inch (0.25") scale core building plans, elevations of the Expansion Base Building and the Parking Garage, and a riser diagram of the mechanical, electrical and plumbing systems. Within four (4) *business* days after Tenant receives such preliminary Expansion Base Building and Garage Plans, Tenant will either approve the same in writing or notify Landlord in writing of Tenant's objections to the preliminary Expansion Base Building and Garage Plans and how the preliminary Expansion Base Building and Garage Plans must be changed in order to make them acceptable to Tenant. Each *business* day following the fourth (4th) *business* day after the preliminary Expansion Base Building and Garage Plans are submitted to Tenant until Tenant either approves them or delivers a notice of objections to Landlord will be a day of Tenant Expansion Delay. Within four (4) *business* days after Landlord's receipt of Tenant's notice of objections, Landlord will cause its architect to prepare revised Expansion Base Building and Garage Plans in accordance with such notice and submit the revised Expansion Base Building and Garage Plans to Tenant. In any review, Tenant cannot object to any aspect of the proposed Expansion Base Building and Garage Plans (i) if such objection would require material deviations from the final plans for the Original Building, other than the following deviations: there will be one (1) loading dock instead of two (2) loading docks, the location of the trash area must be changed to a location designated by Tenant in order to accommodate the parking structure, and, at Tenant's election and, subject to Landlord being able to obtain all required permits and approvals from applicable governmental authorities, Tenant may require that there be a permanent covered walkway between the Original Building or the Expansion Building and the Parking Garage, at a location designated by Tenant (Tenant hereby acknowledging that the design and construction of such covered walkways will need to be adjusted if located within any fire lane in order to accommodate the passage of emergency vehicles under the cover), or (ii) such objection was not included within any of the previous objections made by Tenant to the Expansion Base Building and Garage Plans unless the item objected to was not included in any of the previous versions of the Expansion Base Building and Garage Plans or such item was so included, but has been affected by a subsequent change to the Expansion Base Building and Garage Plans. However, it is understood and agreed that Tenant has the right to select the following items, even if such items are not consistent with the same items in the

Original Building, as long as they are available to comply with the schedule for construction of the Expansion Building and the Parking Garage: restroom finishes (including, without limitation, ceramic tile and toilet partitions); lobby finishes; elevator cab finishes; landscaping; and common area interior finishes, doors and hardware. Upon submission to Tenant of the revised Expansion Base Building and Garage Plans, and upon submission of any further revisions, the procedures described above will be repeated until Landlord and Tenant have reached agreement. Once they have reached agreement, Landlord must promptly prepare permit-ready Expansion Base Building and Garage Plans and submit them to Tenant for Tenant's approval. The only grounds upon which Tenant can object to such permit-ready Expansion Base Building and Garage Plans is that they materially differ from the final approved preliminary Expansion Base Building and Garage Plans. Tenant's failure to respond to Landlord's submission within four (4) *business* days after Landlord delivers such permit-ready Expansion Base Building and Garage Plans to Tenant constitutes Tenant's approval of such permit-ready Expansion Base Building and Garage Plans. The final permit-ready Expansion Base Building and Garage Plans, as approved by Landlord and Tenant, constitute the "*Approved Expansion Base Building and Garage Plans*" under this Lease. Each day following February 15, 2000 (as extended by one day for each day of Expansion Deadline Extension), that the Approved Expansion Base Building and Garage Plans have not been approved by Landlord and Tenant for any reason other than Landlord's failure to perform or respond as required by this *Section 18(b)* shall constitute an "*Expansion Plan Approval Delay*". Each day that Landlord does not perform or respond as required by this *Section 18(b)* will extend the February 15, 2000 deadline by one (1) day and will constitute a day of "*Expansion Deadline Extension*".

(c) On or before March 1, 2000, Tenant will cause its architect to prepare and deliver to Landlord preliminary plans and specifications for the Expansion Leasehold Improvements (the "*Expansion Leasehold Improvements Plans*"). While these preliminary plans and specifications are not required to be permit-ready, they must show sufficient detail concerning all aspects of the Expansion Leasehold Improvements so that making them permit-ready is only a matter of incorporating technical details. Each day following March 1, 2000 until Tenant delivers the preliminary Expansion Leasehold Improvements Plans will be a day of Tenant Expansion Delay. Within four (4) *business* days after receipt of the preliminary Expansion Leasehold Improvements Plans, Landlord will either approve the same in writing or notify Tenant in writing of Landlord's objections to the preliminary Expansion Leasehold Improvements Plans and how the preliminary Expansion Leasehold Improvements Plans must be changed in order to make them acceptable to Landlord. Landlord can only object to the preliminary Expansion Leasehold Improvements Plans on the grounds that they would adversely affect the structural integrity of the Expansion Base Building or materially modify any portion of the Core Building Systems of the Expansion Base Building and cannot object in any subsequent review to any matter not raised in a preceding review, unless the item objected to was not included in any of the previous versions of the Expansion Leasehold Improvements Plans or such item was so included, but has been affected by a subsequent change to the Expansion Leasehold Improvements Plans. However, under all circumstances, Tenant has the right to select the following items as they apply to the Expansion Leasehold Improvements, but only as long as such items are available to comply with the schedule of construction of the Expansion Building: restroom finishes (including, without limitation, ceramic tile and toilet partitions); lobby finishes; elevator cab finishes; landscaping; and common area interior finishes, doors and hardware. If Landlord fails to respond in the manner set forth above within four (4) *business* days after the date Tenant delivers the preliminary Expansion Leasehold Improvements Plans to Landlord or objects to the preliminary Expansion Leasehold Improvements Plans on any grounds other than those set forth in the immediately-preceding

sentence, then Landlord will be conclusively deemed to have approved the preliminary Expansion Leasehold Improvements Plans. Within four (4) *business* days after Tenant's receipt of Landlord's notice of objections (if such objections meet the requirements set forth above), Tenant will cause its architect to prepare revised Expansion Leasehold Improvements Plans according to such notice and submit the revised Expansion Leasehold Improvements Plans to Landlord. Upon submission to Landlord of the revised Expansion Leasehold Improvements Plans, and upon submission of any further revisions, the procedures described above will be repeated until Landlord and Tenant have reached agreement. Once they have reached agreement, Tenant must promptly prepare permit-ready Expansion Leasehold Improvements Plans and submit them to Landlord for Landlord's approval. The only grounds upon which Landlord can object to such permit-ready Expansion Leasehold Improvements Plans is that they materially differ from the final approved Expansion Leasehold Improvements Plans. Landlord's failure to respond to Tenant's submissions within four (4) *business* days after Tenant delivers such permit-ready Expansion Leasehold Improvements Plans to Landlord constitutes Landlord's approval of such permit-ready Expansion Leasehold Improvements Plans. The permit-ready Expansion Leasehold Improvements Plans, as finally approved, are referred to in this Lease as the "*Approved Expansion Leasehold Improvements Plans*." Each day following March 15, 2000 (extended one (1) day for each day of Expansion Deadline Extension), that the Approved Extension Leasehold Improvement Plans have not been approved by Landlord and Tenant for any reason other than Landlord's failure to perform or respond as required by this *Section 18(c)* shall constitute an Extension Plan Approval Delay. Each day Landlord does not perform or respond as required by this *Section 18(c)* will constitute a day of Expansion Deadline Extension.

(d) At such time as Landlord and Tenant have approved the Approved Expansion Base Building and Garage Plans and the Approved Expansion Leasehold Improvements Plans (and in any event within ten (10) days thereafter), Landlord will (i) obtain at least three bids for each of the major trades that will be involved in the construction of the Parking Garage and the Leasehold Improvements, unless less than three qualified subcontractors exist for a given trade, in which case Landlord will obtain a bid from all qualified subcontractors of such trade (with Landlord agreeing to solicit and consider bids from qualified subcontractors selected by Tenant); (ii) using the lowest qualified bid (which, in order to be qualified, must fully comply with all bid requirements, including but not limited to any time requirements specified) from each of the bids so received, prepare a proposed budget for all items to be included in Expansion Costs ("*Tenant's Expansion Cost Proposal*"); and (iii) submit copies of all bids and the Tenant's Expansion Cost Proposal to Tenant for Tenant's review and approval. Tenant, at Tenant's option, may either approve Tenant's Expansion Cost Proposal in writing, or elect to eliminate or revise one or more items of the Parking Garage and the Expansion Leasehold Improvements shown on the Approved Expansion Base Building and Garage Plans or the Approved Expansion Leasehold Improvements Plans, or request additional bids so as to reduce the costs shown in the Tenant's Expansion Cost Proposal. Tenant may then approve in writing the reduced Tenant's Expansion Cost Proposal (based on revised Approved Expansion Base Building and Garage Plans or Approved Expansion Leasehold Improvements Plans prepared by Tenant's architect or revised bids, as the

case may be, which will then be deemed the Approved Expansion Base Building and Garage Plans and the Approved Expansion Leasehold Improvements Plans for all purposes under this Lease). However, each day following the fourth (4th) *business* day after Tenant's receipt of Tenant's Expansion Cost Proposal until the day on which Landlord has received Tenant's written approval of Tenant's Expansion Cost Proposal will be a day of Tenant Expansion Delay. The Tenant's Expansion Cost Proposal, as finally approved, is referred to in this Lease as the "*Approved Expansion Costs*."

(e) Tenant's Representative may request and authorize changes in the Parking Garage and the Expansion Leasehold Improvements as long as such changes (i) are consistent with the scope of Landlord's Expansion Work, and (ii) do not affect any portion of the Core Building Systems relating to the Expansion Base Building. All other changes will be subject to Landlord's prior written approval, which approval Landlord cannot unreasonably withhold, delay, or condition. If Tenant wishes to request such a change to the Parking Garage or the Expansion Leasehold Improvements, then Tenant must deliver to Landlord written notice of the requested change and within four (4) *business* days after Tenant delivers such request to Landlord and prior to commencing any change, Landlord will prepare and deliver to Tenant, for Tenant's approval, a change order ("*Expansion Change Order*") identifying the total cost or savings of such change, which will include associated architectural, engineering and construction contractor's fees, and the total time that will be added to or subtracted from the construction schedule by such change. Once Landlord delivers an Expansion Change Order to Tenant for Tenant's approval, Tenant must either affirmatively approve or disapprove of the Expansion Change Order within three (3) *business* days following Tenant's receipt of the Expansion Change Order. In the event Tenant fails to respond within the three (3) *business* day period, then each day thereafter that Tenant fails to respond shall be a Tenant Expansion Delay. Alternatively, Landlord may deliver to Tenant, within the same four (4) *business* day period, an estimate of the time and costs to be expended in calculating the Expansion Change Order. In the event Tenant does not respond or fails to affirmatively authorize Landlord to proceed on the third (3^{rd}) *business* day following Tenant's receipt of such estimate, then it shall be conclusively deemed that Tenant withdrew its request for such change in the Parking Garage or the Expansion Leasehold Improvements. If Tenant authorizes Landlord to proceed with calculating the cost of the Expansion Change Order, then Tenant shall be responsible for all reasonable costs associated therewith (and pay same to Landlord within 30 days following Landlord's written request) and any reasonable delay in connection with such calculation shall be an Tenant Expansion Delay, whether or not Tenant ultimately approves the Expansion Change Order.

(f) Landlord must deliver the Expansion Building to Tenant, with Landlord's Expansion Work Substantially Completed, on or before October 11, 2000 (the "*Projected Expansion Completion Date*"), as such date has been delayed due to any Tenant Expansion Delays, Expansion Plan Approval Delays and Permitted Expansion Force Majeure Delays only, it being understood and agreed that such date cannot be extended for any reason other than Tenant Expansion Delays, Expansion Plan Approval Delays and Permitted Expansion Force Majeure Delays. If Landlord fails to deliver possession of the Expansion Building and Parking Garage, with Landlord's Expansion Work Substantially Completed by the Projected Expansion Completion Date, as it may be extended, (i) the Expansion Commencement Date (as that term is defined in *Section 18(j)(I)* below) will be extended automatically by one day for each day of the period after the Projected Expansion Completion Date to the day on which Landlord tenders possession of the Expansion Building and Parking Garage to Tenant with Landlord's Expansion Work Substantially Completed, less any portion of that period attributable to Tenant Expansion Delays; and (ii) Landlord will pay Tenant, as liquidated damages, an amount equal to $250,000.00 per month (pro-rated and payable on a weekly basis beginning on the day after the Projected Expansion Completion Date, as it may be extended, so that a delay for a partial week will constitute a delay for an entire week) for each day after such Projected Expansion Completion Date (as it may be extended) until Landlord tenders possession of the Expansion Building and Parking Garage to Tenant with Landlord's Expansion Work Substantially Completed; provided, however, that in no event can such liquidated damages exceed a total of $250,000.00, and (iii) if Landlord has tendered the Expansion Building and Parking Garage to Tenant with Landlord's Expansion Work

Substantially Completed, Landlord will pay to Tenant, as liquidated damages, $500.00 per day after the forty-fifth (45^{th}) day (which date shall be extended due to force majeure provided that Landlord diligently prosecutes the completion of the Expansion Punch List) after Tenant delivers the Expansion Punch List to Landlord until Final Completion of Landlord's Expansion Work; and (iv) if Landlord does not tender possession of the Expansion Building and Parking Garage to Tenant with the Landlord's Expansion Work Substantially Completed on or before sixty (60) days after the Projected Expansion Completion Date (as it may be extended), Tenant will have the right to terminate this Lease, as to the Expansion Building only (and any rights and obligations respecting the Parking Garage which are incidental to the Expansion Building), by delivering written notice of termination to Landlord not more than thirty (30) days after such deadline date. Upon a termination under clause "(iv)" above, each party will, upon the other's request, execute and deliver an agreement in recordable form containing a release and surrender of all right, title and interest in and to this Lease as to the Expansion Building only; neither Landlord nor Tenant will have any further obligations to each other, including, without limitation, any obligations on Tenant's part to pay for work previously performed in the Expansion Building and Parking Garage, except as set forth in this sentence; all Improvements to the Expansion Building will become and remain the property of Landlord; and Landlord will refund to Tenant any sums paid to Landlord by Tenant in connection with this Lease relating to the *Expansion Building and Parking Garage only*, including, without limitation, any payments to Landlord of portions of Tenant's Expansion Cost and pay to Tenant the amounts that have accrued under clause "(ii)" above. Such postponement of the Expansion Commencement Date, payment of liquidated damages and termination and refund right will be in full settlement of all claims that Tenant might otherwise have against Landlord by reason of Landlord's failure to have Substantially Completed its obligations by the Projected Expansion Completion Date (as it may be extended). If Landlord delivers possession of the Expansion Building and Parking Garage with the Landlord's Expansion Work Substantially Completed prior to the Projected Expansion Completion Date, then Tenant may either accept such delivery (in which case such date will be the Expansion Commencement Date hereunder) or may refuse to accept delivery until any date selected by Tenant that is no later than the Projected Expansion Completion Date (as it may be extended). Within sixty (60) days after the Expansion Commencement Date, Landlord will provide to Tenant a complete set of as-built drawings of Landlord's Expansion Work and manuals for all equipment incorporated into the Improvements as a part of Landlord's Expansion Work. Landlord and Tenant have sixty (60) days after Landlord notifies Tenant that the Expansion Building has been Substantially Completed in which to remeasure the Expansion Building, but after the expiration of such sixty (60) day period, neither Landlord nor Tenant may remeasure the Expansion Building. The final Rentable Square Feet as shown in the Approved Expansion Base Building Plans are sometimes referred to as the "*Approved Expansion Rentable Square Feet*." In the absence of such remeasurement or the right to do so, it shall be conclusively deemed that the Expansion Building contains the Approved Expansion Rentable Square Feet. If Tenant timely elects to remeasure the Expansion Building, and the variance is greater than one percent (1%) but less than two percent (2%), the variance shall be permitted and have no effect on the Expansion Building being Substantially Completed, but the Expansion Basic Rent for the Expansion Building and all other amounts calculated based on the area of the Expansion Building will be modified accordingly. If the Expansion Building contains more than 102% of the Approved Expansion Rentable Square Feet, all amounts will be calculated as if the Expansion Building contains 102% of the Approved Expansion Rentable Square Feet. If the Expansion Building contains less than 98% of the Approved Expansion Rentable Square Feet, then Landlord must make all alterations necessary to increase the size of the Expansion Building to at least 98% of the Approved Expansion Rentable Square Feet, and the Expansion Building will not be deemed to be

Substantially Completed until Landlord does so. If Landlord fails to do so and Tenant fails to terminate this Lease pursuant to the termination right set forth in *Section 8(f)(iv)* above, then Tenant will be deemed to have accepted the size of the Expansion Building and the Expansion Building will be deemed to have been Substantially Completed on the day Landlord delivered the Expansion Building to Tenant with the Landlord's Expansion Work (other than the area of the Expansion Building) Substantially Complete. In such event, all amounts will be calculated on the actual size of the Expansion Building.

(g) As provided in *Section 18(j)(I)*, the Expansion Commencement Date (and therefore Tenant's obligation for the payment of Expansion Basic Rent) will not commence until Landlord has Substantially Completed Landlord's Expansion Work; provided, however, that if Landlord is delayed in causing Landlord's Expansion Work to be Substantially Completed as a result of: (a) any Expansion Approval Delays, (b) any Change Orders or changes in any drawings, plans or specifications requested by Tenant (with each individual occurrence constituting a "*Tenant Expansion Delay*" and the cumulative occurrences constituting "*Tenant Expansion Delays*"), or

(c) force majeure delays (with such force majeure delays being referred to in this Lease as "*Permitted, Expansion Force Majeure Delays*"), then, if such delays exceed ten (10) days, the Expansion Commencement Date will only be extended under *Section 18(f)* until the date on which Landlord would have Substantially Completed the performance of such work but for such delays. As a condition to claiming a Permitted Expansion Force Majeure Delay or a Tenant Expansion Delay, the day of delay must have otherwise been a day upon which Landlord intended to work on the item affected by the delay and was prevented from doing so by such force majeure and Landlord must advise Tenant of the circumstances giving rise to the claim within ten (10) *business* days after they arise, the estimated cost that Tenant can pay as that time to effect any available remedy to eliminate or reduce such delay (for example, overtime work), the cumulative total number of Permitted Expansion Force Majeure Delays and Tenant Expansion Delays through the date of each event.

(h) Landlord must perform the Landlord's Expansion Work in substantial accordance with the Approved Expansion Base Building and Garage Plans and the Approved Expansion Leasehold Improvements Plans and in a good and workmanlike manner, using new materials, and in accordance with all applicable laws, ordinances, rules, and regulations, including without limitation, ADA and the Texas Accessibility Act (as they exist and are interpreted and enforced at the time) and all applicable environmental laws as interpreted and enforced by the governmental bodies having jurisdiction thereof at the time of construction. Tenant's taking possession of any portion of the Expansion Building will be conclusive evidence that such portion of the Expansion Building was in good order and satisfactory condition, and that all of Landlord's Expansion Work in or to such portion of the Expansion Building was Substantially Completed, when Tenant took possession, except as to any patent defects or uncompleted items in the Expansion Building (including, without limitation, the Common Areas, including all landscaped) and the Parking Garage identified on a punch list (the "*Expansion Punch List*") prepared by Tenant's Representative after an inspection of the Expansion Building (including, without limitation, the Common Areas, including all landscaped areas) and the Parking Garage by both Tenant's Representative and Landlord's Representative (unless Landlord's Representative fails to attend an inspection scheduled by Tenant's Representative, with Tenant acknowledging that Tenant's Representative must cooperate with Landlord's Representative in attempting to establish a mutually-acceptable date and time of inspection) made within thirty (30) days afterTenant takes possession, and except as to any latent defects in Landlord's Expansion Work. Landlord will not be responsible for any items of damage caused by Tenant, its agents, independent contractors or suppliers. No promises to construct, alter, remodel or improve the Expansion Building, and no representations concerning the

condition of the Expansion Building, have been made by Landlord to Tenant other than as may be expressly stated in this Lease.

(i) Landlord appoints Landlord's Representative to act for Landlord in all matters covered by this *Section 18*. Tenant appoints Tenant's Representative to act for Tenant in all matters covered by this *Section 18*. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this *Section 18* will be made to Landlord's Representative or Tenant's Representative, as the case may be. Tenant will not make any inquiries of or requests to, and will not give any instructions or authorizations to, any other employee or agent of Landlord, including Landlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this *Section 18*. Either party may change its representative at any time by three days' prior written notice to the other party. Landlord and Tenant acknowledge that they must work together cooperatively in order to design the Expansion Building and the Parking Garage and therefore agree to act reasonably and in good faith in such design process

(j) Upon Tenant's approval of the Tenant's Expansion Cost Proposal, this Lease will automatically be amended as follows (with Landlord and Tenant each agreeing to execute a written agreement confirming these amendments upon delivery of such an amendment to such party by the other party):

(I) The Term of this Lease will be extended so that it ends on the day before the tenth (10^{th}) anniversary of the date of Substantial Completion of the Expansion Building and the Parking Garage (the "*Expansion Commencement Date*"). The options to extend the Term of this Lease granted in *Section 2.5* above will remain in full force and effect and may be exercised at the end of the Term of this Lease, as so extended, subject to the notice and other requirements of *Section 2.5*. Any exercise of the option to extend will apply to and include both the Original Building and the Expansion Building as well as the continuing rights relating to the Parking Garage, unless the Original Building and the Expansion Building have been divided into two (2) leases, as contemplated by the terms of *Article 19* below, in which case each tenant of each such building may exercise or not exercise the options to extend as to its own building. Notwithstanding the foregoing, Tenant may, at any time after the end of the seventh (7th) anniversary of the Expansion Commencement Date, terminate this Lease *as to the Expansion Building only* (and any rights and obligations respecting the surface parking areas and the Parking Garage incidental to the Expansion Building) by giving Landlord written notice of such decision to terminate, which notice must specify a termination date (the "*Termination Date*") no earlier than nine (9) months after the date of such notice and must be accompanied by a payment equal to nine (9) months of Expansion Base Rent (the "*Termination Penalty*"), which amount is not a prepayment of rent, it being understood and agreed that Tenant must continue to pay Expansion Base Rent through the Termination Date. On the Termination Date, (i) Tenant must pay to Landlord an amount equal to the unamortized portion of any brokerage commission paid by Landlord in connection with the Expansion Building and one-half (1/2) of the unamortized portion of the cost of the Expansion Leasehold Improvements for which Landlord paid and was not reimbursed by Tenant, it being understood and agreed that the amortization period is ten (10) years, and (ii) Landlord must refund to Tenant any amounts Tenant has paid for periods after the Termination Date and must pay to Tenant any other amounts that might be due from Landlord to Tenant. The parties may offset these amounts instead of exchanging checks. From and after the Termination Date, Landlord and Tenant will have no obligation to each other concerning the Expansion Building (and any rights or obligations respecting the surface parking areas and the Parking Garage which are incidental to the Expansion Building) or the Parking Garage, except for obligations which arose before or on the Termination Date and except for the obligations which accrue to Tenant as the tenant of the Original Building.

(II) The Basic Rent will be as follows:

(A) for the Original Building, the Original Basic Rent will be the same as provided in *Section 4.1* above for the number of years which represents the balance of the Original Term as defined in *Section 1.1* above. Thereafter, the Original Basic Rent will increase on the first day after the original expiration date of the Original Term to an amount equal to one hundred twelve and one-half percent (112.5%) of the Original Basic Rent in effect for the immediately preceding period. For example, if the Original Basic Rent were $128,244.62 per month, then for the period beginning on the day after the original expiration date of the Original Term and extending through the then-existing initial term, the Basic Rent would be $144,275.19.

(B) for the Expansion Building, the monthly rent (the "*Expansion Basic Rent*") will be equal to the amount determined by multiplying the amount specified below by the number of Rentable Square Feet in the Expansion Building (subject to the terms of *Section 18(f)* above) and then dividing the result thus obtained by twelve (12):

Months 1 through and including 60:	$	11.88
Months 61 through and including the end of the primary term:	$	13.30

(III) To require that within ninety (90) days after the Final Completion of the Expansion Building and the Parking Garage, Landlord must prepare and deliver to Tenant a package (the "*Cost Information Package*") containing all of the following (a) a statement setting forth the actual cost of the Parking Garage and the actual cost of the Expansion Leasehold Improvements, (b) reasonable supporting documentation evidencing the amounts set forth in the statement of actual costs, and (c) a calculation of the Amortization Increase Amount. If Landlord does not send the Cost Information Package to Tenant within such ninety (90) day period, then Landlord will conclusively be deemed to have waived its right to claim that it should be reimbursed for any excess of the actual cost of the Parking Garage and the Expansion Leasehold Improvements over the Expansion Allowance.

(A) If the Cost Information Package shows that the actual cost of the Parking Garage and the Expansion Leasehold Improvements was less than the Expansion Allowance, then Landlord must deliver payment of the excess of the Expansion Allowance over the actual cost of the Parking Garage and the Expansion Leasehold Improvements at the same time as Landlord delivers the Cost Information Package to Tenant.

(B) If the Cost Information Package shows that the actual cost of the Parking Garage and the Expansion Leasehold Improvements was greater than the Expansion Allowance, then (i) as to the Parking Garage, Tenant must deliver to Landlord an amount equal to the lesser of (a) the amount by which the cost of the Parking Garage exceeded the Parking Garage Allowance, or (b) the amount by which the total cost of the Parking Garage and the Leasehold Improvements exceeded the Expansion Allowance, and (ii) as to the excess, if any, of the payment made under "(i)" above, over the total amount by which the cost of the Parking Garage and the Leasehold Improvements exceeded the Expansion Allowance, Tenant must deliver to Landlord a written notice (such notice is referred to as "*Tenant's Election Notice*") that (i) Tenant has elected to pay such excess amount to Landlord, which notice must be accompanied by a payment of such amount, or (ii) that Tenant has elected to increase the Basic Rent for the Expansion Building by the Amortization Increase Amount and to pay the unamortized portion of any such excess to Landlord, which notice must be accompanied by a payment of such unamortized amount.

Tenant is entitled at any time, upon five (5) days written notice to Landlord, to investigate Landlord's books and records concerning the Expansion Building (including, without limitation, the Expansion Leasehold Improvements) and the Parking Garage and Landlord's calculation of the Amortization Increase Amount. If Tenant's investigation shows that any such amounts or calculations in

the Cost Information Package were incorrect, then Tenant may notify Landlord of such fact and if Landlord would have owed Tenant any amount under this Lease had the corrected amount or calculation been included in the original Cost Information Package or if the amount of the Amortized Amount or the Amortization Increase Amount would have been less had the correct amount been included in the Cost Information Package, then Landlord must deliver to Tenant the amount which Landlord underpaid to Tenant or the amount Tenant overpaid to Landlord, or both, as the case may be, plus, but only if the amount which Landlord underpaid to Tenant is more than five percent (5%) of the total amount owed by Landlord to Tenant, the reasonable costs and expenses of such investigation (not to exceed $1,000) within thirty (30) days after Tenant delivers notice to Landlord of the results of Tenant's investigation.

SECOND AMENDMENT TO BUILD-TO-SUIT LEASE

This Second Amendment to Build-to-Suit Net Lease (this "*Second Amendment*") is executed by and between Oaklawn Alliance, L.L.C., a Delaware limited liability company ("*Landlord*") and ADS Alliance Data Systems, Inc., a Delaware corporation ("*Tenant*") and is effective of the last day accompanying the signature of Landlord, Tenant, Guarantor, and Mortgagee below. Guarantor and Mortgagee (both as defined below) are executing this Second Amendment for the purposes indicated in this Second Amendment.

RECITALS

A. Effective as of January 29, 1998, Opus South Corporation, a Florida corporation ("*Original Landlord*") and Tenant entered into that certain Build-To-Suit Net Lease (the "*Original Lease*") covering certain property located in the City of Dallas, Collin County, Texas (the "*Land*"). The Land together with the Original Base Building (as defined in the Original Lease) is referred to in this Second Amendment as the "*Premises.*"

B. The Original Lease was guaranteed by Alliance Data Systems Corporation, a Delaware corporation ("*Guarantor*") pursuant to the terms of that certain Lease Guaranty dated the same as the Original Lease (the "*Guaranty*").

C. A Memorandum of Lease was executed the same day as the Original Lease and recorded on January 30, 1998 in Volume 4091, Page 1447 of the real property records of Collin County, Texas.

D. Original Landlord, Tenant, and NationsBank, N.A. a national banking association ("*Mortgagee*") entered into that certain Subordination, Non-disturbance and Attornment Agreement date April 3, 1998 and recorded on April 7, 1998 at Volume 4138, Page 1032 of the real property records of Collin County, Texas (the "*SNDA*").

E. On December 3, 1998, Original Landlord transferred the Premises to Landlord.

F. Effective as of January 14, 2000 Landlord and Tenant executed that certain First Amendment to Build-to-Suit Net Lease (the "*First Amendment*," with the Original Lease and the First Amendment being collectively referred to as the "*Lease*"), wherein the Original Lease was amended with respect to, among other matters, the construction of a second building and certain related leasehold improvements (collectively defined in the First Amendment as the "*Expansion Building*").

G. A First Amendment to Memorandum of Lease was executed in connection with the First Amendment and recorded on February 23, 2000, in Volume 4610, Page 1072 of the real property records of Collin County, Texas.

H. Landlord and Tenant wish to further amend the Lease as follows: (i) to establish the areas of the first (1st), second (2nd), and third (3rd) floors of the Expansion Building, (ii) to establish the Expansion Commencement Date (as defined in the First Amendment) with respect to (a) the first (1st) and second (2nd) floors of the Expansion Building, and the (b) third (3rd) floor of the Expansion Building, (iii) to establish the expiration date of the Term, and (iv) to provide for an increase of the Expansion Basic Rent for the Expansion Building by the Amortization Increase Amount, as more particularly set forth *Section 18(i)(III)(B)* of the Lease. The purpose of this Second Amendment is to set forth the agreement of Landlord and Tenant in such regard.

AGREEMENTS

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

1. *Confirmation of Substantial Completion*: Landlord and Tenant hereby acknowledge and agree that the Expansion Building and the Parking Garage are Substantially Complete; provided, however,

that such acknowledgment by Tenant does not limit Tenant's right to require Landlord to perform items identified on the Punch List or to cure patent or latent defects, as more fully set forth in the Lease.

2. *Establishment of the Area of the Floors*: Landlord and Tenant hereby establish the area of the Expansion Building to be 115,642 square feet, with each of the floors in the Expansion Building containing the following number of square feet:

First Floor:	37,568 square feet
Second Floor:	38,911 square feet
Third Floor:	39,163 square feet

Landlord and Tenant hereby confirm that the Expansion Building has been re-measured and that they therefore waive the terms of Section 18(f) of the Lease as it relates to re-measurement of the Expansion Building and the effect of such re-measurement on determining whether or not the Expansion Building has been substantially completed.

3. *Establishment of the Commencement Date for the Floors*: Landlord and Tenant hereby establish the Expansion Commencement Date of each of the floors in the Expansion Building as follows:

First Floor:	September 18, 2000
Second Floor:	September 18, 2000
Third Floor:	October 16, 2000

Tenant must pay Expansion Basic Rent for the first and second floors for the period beginning on September 18, 2000 and must pay Expansion Basic Rent for third floor for the period beginning on October 16, 2000. Landlord and Tenant did not reach agreement concerning such dates and the other matters set forth in this Second Amendment until after the Expansion Commencement Dates occurred. Therefore, Tenant has until three (3) business days after the date of this Second Amendment to pay to Landlord all amounts that are due and payable under this Lease and Tenant's failure to pay any such amounts before such deadline will not give rise to any rights or remedies on Landlord's part. Thereafter, Tenant must pay all amounts due under the Lease in accordance with the terms of the Lease.

4. *Establishment of the Expiration Date of the Term*: Landlord and Tenant hereby establish the Expiration Date of the Term of the Lease as October 31, 2010, which date may be extended if Tenant properly exercises a Renewal Option under the terms of the Lease.

5. *Increase Expansion Basic Rent by the Amortization Increase Amount*: Although Tenant has been unable to verify the amount, if any, by which the actual cost of the Expansion Leasehold Improvements over the Expansion Leasehold Improvements Allowance, Landlord has represented to Tenant that they such excess exceeds the maximum Amortized Amount. Therefore, subject to change based upon review of the Cost Information Package and, if Tenant so elects, Landlord's books and records concerning the Expansion Building (including, without limitation, the Expansion Leasehold Improvements) and the Parking Garage, Landlord and Tenant agree that the Amorization Amount is $572,095.00 and that the resulting Amorization Increase Amount is $.76 per square foot of area within the Expansion Building. Therefore, the monthly Expansion Basic Rent will be equal to the amount determined by multiplying the amount specified below by the number of Rentable Square Feet in the Expansion Building and then dividing the result thus obtained by twelve (12):

Months 1 through and including 60:	$ 12.64
Months 61 through and including the end primary term.	$ 14.06

Tenant's agreement to begin paying Expansion Basic Rent in accordance with the foregoing schedule does not in any way limit Landlord's obligation to deliver a Cost Information Package to Tenant's rights in connection with the final determination of the excess, if any, of

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the actual cost of the Expansion Leasehold Improvements over the Expansion Leasehold Improvements Allowance. If such final determination is that the excess is less than $572,095.00, then Landlord and Tenant must re-calculate the Amortization Increase Amount within thirty (30) days after such determination and Landlord must refund to Tenant any amounts that Tenant has paid as Expansion Basic Rent in excess of the amounts Tenant should have been paying using such re-calculated amounts. If Landlord does not pay such amount to Tenant within (30) days after the final determination of such excess, then Tenant may offset such amount against Expansion Basic Rent next accruing.

6. *Cost Information Package*: Landlord and Tenant hereby covenant and agree that the deadline for Landlord to deliver the Cost Information Package to Tenant is January 15, 2001. At such time as Landlord and Tenant determine the amount of the excess, if any, of the actual cost of the Expansion Leasehold Improvements and the Parking Garage over the sum of the Expansion Allowance and the Amortized Amount, then Landlord will give Tenant a $7,500 credit (the "*Credit Amount*") against such excess (this credit is established because approximately 7,500 square feet of area on the first floor of the Expansion Building was not Substantially Complete on the date established as the Commencement Date for the first floor, although it is was Substantially Complete by October 16, 2000). If for any reason, the amount of such excess is less than the Credit Amount, then Landlord must pay the excess of the Credit Amount over such excess to Tenant. If Landlord does not pay such amount within thirty (30) days after the final determination of such excess, then Tenant may offset such amount against Expansion Basic Rent next accruing. If the amount of such excess exceeds the Credit Amount, then Tenant must pay the amount of such excess which exceeds the Credit Amount to Landlord in accordance with the terms of *Paragraph 1.8(j)(III)(B)*, but subject to all of the other terms of the Lease (including, without limitation, the other terms of *Paragraph 18(i)(III)* of the Lease).

7. *Amendment to Insert Missing Language*: Certain pages in the First Amendment were inserted into the document manually rather than electronically and as a result, the introduction to and first few lines of paragraph 8 were deleted. Landlord and Tenant hereby amend the Lease to insert such introductory language and missing lines, as set forth below:

8. *Lease Guaranty:* Landlord, Tenant and Guarantor hereby amend Section 7 of the Lease Guaranty (attached as Exhibit "G" to the Lease) by deleting it in its entirety and replacing it with the following:

7. Notwithstanding anything to the contrary set forth elsewhere in this Guaranty, (i) in the event Tenant assigns the Lease in its entirety or subleases the entire Premises and the Release Conditions, as defined in the Lease, are met, then

8. *Guarantor's Execution*: Guarantor is executing this Second Amendment for the purpose of confirming that the execution and delivery of this Second Amendment does not in any way terminate or limit Guarantor's obligation under the Guaranty.

9. *Mortgagee's Execution*: Mortgagee is executing this Second Amendment for the purpose of evidencing its consent to and agreement that if Mortgagee becomes the Landlord under the Lease, Mortgagee will be bound by the terms and provisions of this Second Amendment, subject to the terms and provision of the SNDA.

10. *Counterparts*: This Agreement may be executed in multiple counterparts, all of which, when taken together, will constitute one (1) original.

11. *Only Agreement*. The Original Lease, as amended by the First Amendment and this Second Amendment, represent the only agreement between Landlord and Tenant and among the parties that any letters or other documents that Landlord and Tenant may have signed do not amend the Original Lease as so amended and are not binding agreements by and between Landlord and Tenant or among the parties. Such letters were meant only to convey Landlord and Tenant's estimate of certain amounts as of the date of such letters and can in no way be deemed binding on

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either Landlord or Tenant or a waiver of any party's rights under the Original Lease, as so amended.

LANDLORD:

OAKLAWN ALLIANCE, L.L.C.,
a Delaware Limited liability company

By: /s/ NEIL J. RAUENHORST

Name: Neil J. Rauenhorst
Title: President
Date of Signature: 12-4-00

TENANT:

ADS ALLIANCE DATA SYSTEMS, INC.,
a Delaware corporation

By: /s/ MICHAEL BELTZ

Name: Michael Beltz
Title: Executive Vice President
Date of Signature: 11/22/00

GUARANTOR:

ALLIANCE DATA SYSTEMS CORPORATION,
a Delaware corporation

By: /s/ MICHAEL BELTZ

Name: Michael Beltz
Title: President Business Develop & Planning
Date of Signature: 11/22/00

MORTGAGEE:

BANK OF AMERICA
a national banking association (successor to NationsBank, N.A.)

By: /s/ CHARLES S. FLINT

Name: Charles S. Flint
Title: SVP
Date of Signature: 11/30/00

STOCKHOLDERS AGREEMENT
dated as of June , 2001
among
ALLIANCE DATA SYSTEMS CORPORATION
(FORMERLY, WORLD FINANCIAL
NETWORK HOLDING CORPORATION),
LIMITED COMMERCE CORP.,
WELSH, CARSON, ANDERSON & STOWE, VI. L.P.,
WELSH, CARSON, ANDERSON & STOWE VII, L.P.,
WELSH, CARSON, ANDERSON & STOWE VIII, L.P.,
WCAS INFORMATION PARTNERS, L.P.,
WCAS CAPITAL PARTNERS II LP
and
WCAS CAPITAL PARTNERS III LP

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STOCKHOLDERS AGREEMENT dated as of June , 2001 among Alliance Data Systems Corporation (formerly, World Financial Network Holding Corporation) (the "**Issuer**"), Limited Commerce Corp. ("**Limited Commerce**"), Welsh, Carson, Anderson & Stowe VI, L.P. ("**WCAS VI**"), Welsh, Carson, Anderson & Stowe VII, L.P. ("**WCAS VII**"), Welsh Carson, Anderson & Stowe VIII, L.P. ("**WCAS VIII**"), WCAS Information Partners, L.P. ("**WCAS IP**") WCAS Capital Partners II LP ("**CP II**") and WCAS Capital Partners III LP (together with WCAS VI, WCAS VII, WCAS VIII, WCAS IP and CP II, the " **Investors**").

WHEREAS, the parties hereto are parties to a Stockholders Agreement dated as of January 31, 1996 (as amended, the "**Original Stockholders Agreement**");

WHEREAS, concurrently with the execution of this Agreement, the Issuer is consummating an initial public offering of its Common Stock; and

WHEREAS, in connection with such initial public offering, the parties hereto wish to terminate the Original Stockholders Agreement and to enter into this Agreement;

NOW THEREFORE, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01. *Definitions.* (a) The following terms, as used herein, have the following meanings:

"**Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in the City of New York are authorized by law to close.

"**Commission**" means the Securities and Exchange Commission and any successor having similar powers.

"**Common Stock**" means the shares of common stock, par value $0.01 per share, of the Issuer.

"**Duly Endorsed**" means duly endorsed in blank by the Person or Persons in whose name a stock certificate is registered or accompanied by a duly executed stock assignment separate from the certificate with the signature(s) thereon guaranteed by a commercial bank or trust company or a member of a national securities exchange or of the National Association of Securities Dealers, Inc.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Holder**" means each Person (other than the Issuer) who shall be a party to this Agreement, whether in connection with the execution and delivery of the Agreement as of the date hereof or otherwise, so long as such Person shall "**beneficially own**" (as such term is defined in Rule 13D-3 under the Exchange Act) any shares of Common Stock; *provided* that, in addition to the parties to this Agreement as of the date hereof, only Permitted Transferees shall be Holders; and *provided further* that, in connection with any Transfer of Common Stock to a Permitted Transferee, such Permitted Transferee shall execute an Agreement to be Bound in the form of Exhibit A hereto (it being understood that partners of any Investor that receive shares of Common Stock in a pro rata "distribution-in-kind" from such Investor shall not be considered a "Holder" for purposes of this Agreement and any proposed Transfer to a Permitted Transferee who does not execute such an Agreement to be Bound shall be null and void and neither the Issuer nor any transfer agent of the Issuer shall register, or otherwise recognize in the Issuer's stock records, any such improper Transfer).

"**Issuer Board**" means the Board of Directors of the Issuer.

"**Parent**" means The Limited, Inc., a Delaware corporation.

"**Permitted Transferee**" means, with respect to Limited Commerce, Parent or any Subsidiary of Parent.

"**Person**" means an individual, partnership, corporation, trust, joint stock company, association, joint venture, or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"**Public Offering**" means any primary or secondary public offering of equity securities of the Issuer pursuant to an effective registration statement under the Securities Act other than pursuant to a registration statement on Form S-4 or Form S-8 or any successor or similar form.

"**Registrable Securities**" means the Common Stock held by Limited Commerce, the Investors and the respective Transferees of Limited Commerce or any Investor and any capital stock for which such Common Stock is exchanged or into which it is converted; provided that such securities shall cease to be Registrable Securities when (x) a registration statement relating to such securities shall have been declared effective by the Commission, and such securities shall have been disposed of pursuant to such effective registration statement, or (y) such securities are sold under circumstances in which all of the applicable conditions of Rule 144 (or any similar provisions then in effect) under the Securities Act are met or such shares may be sold pursuant to Rule 144(k).

"**Registration Expenses**" means all (i) registration and filing fees, (ii) fees and expenses of compliance with securities or blue sky laws (including reasonable fees and disbursements of a qualified independent underwriter, if any, counsel in connection therewith and the reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities), (iii) printing expenses, (iv) internal expenses of the Issuer (including, without limitation, all salaries and expenses of officers and employees performing legal or accounting duties), (v) fees and disbursements of counsel for the Issuer, (vi) customary fees and expenses for independent certified public accountants retained by the Issuer (including the expenses of any comfort letters or costs associated with the delivery by independent certified public accountants of a comfort letter or comfort letters), (vii) fees and expenses of any special experts retained by the Issuer in connection with such registration, (viii) reasonable fees and expenses of (A) one counsel for Limited Commerce and its Permitted Transferees and (B) one counsel for Investors and its Permitted Transferees, (ix) fees and expenses of listing the Registrable Securities on a securities exchange or on the NASDAQ National Market System, (x) rating agency fees, (xi) reasonable fees and expenses of counsel for the Underwriter, (xii) reasonable fees and expenses of the Underwriter (excluding discounts or commissions relating to the distribution of the Registrable Securities) and (xiii) out-of-pocket expenses of the Issuer.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Selling Holder**" means Limited Commerce or any Transferees of Limited Commerce or any Investor or any Transferees of any Investor who propose to Transfer Registrable Securities pursuant to Article 3.

"**Subsidiary**" means, with respect to any Person, any corporation or other entity of which a majority of the capital stock or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person.

"**Third Party**" means a prospective purchaser of Common Stock from a Holder.

"**Transfer**" means any act of a Holder, directly or indirectly, to transfer, sell, assign, pledge, hypothecate, encumber or otherwise dispose of any Common Stock to any Person.

"**Transferee**" means any transferee in a Transfer.

"**Underwriter**" means a securities dealer who purchases any Registrable Securities as a principal in connection with a distribution of such Registrable Securities and not as part of such dealer's market-making activities.

"**Voting Securities**" means any class or series of capital stock and any bond, debenture or other obligation of the Issuer or WFN having the right to vote generally on matters voted on by the stockholders of the Issuer or WFN, as the case may be.

"**WFN**" means World Financial Network National Bank, a national banking association and a wholly owned Subsidiary of the Issuer.

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

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ARTICLE 2
RIGHTS AND OBLIGATIONS WITH RESPECT TO TRANSFER

SECTION 2.01. *Tag-along Rights.* (a) Except as provided in Section 2.01(e), if any Holder ("**Transferring Party**") proposes to sell or otherwise dispose of any of its Common Stock to any Third Party (a "**Tag-along Purchaser**") pursuant to a bona fide offer to purchase (a "**Tag-along Offer**"), the Transferring Party shall provide written notice (the "**Tag-along Offer Notice**") of such Tag-along Offer to the Issuer and the Issuer shall promptly provide written notice (the effective date of such notice being the "**Tag-along Notice Date**") of such Tag-along Offer to each other Holder and its Permitted Transferees (each, a "**Tag-along Offeree**") in the manner set forth in this Section 2.01. The Tag-along Offer Notice shall identify the Tag-along Purchaser, the Tag-along Ratio (as defined below), the consideration per share of Common Stock and other material terms and conditions of the Tag-along Offer and, in the case of a Tag-along Offer in which the consideration payable for Common Stock consists in part or in whole of consideration other than cash, such information relating to such consideration as the Tag-along Offeree may reasonably request as being necessary for such Tag-along Offeree to evaluate such non-cash consideration, it being understood that such request shall not

obligate the Transferring Party to deliver any information to such Tag-along Offeree not provided to the Transferring Party by the Tag-along Purchaser. It is understood and agreed that the provisions of this Article II shall not apply to any "distribution-in-kind" of shares of Common Stock by any Investor to the partners of such Investor.

Each Tag-along Offeree shall have the right, exercisable as set forth below, to accept the Tag-along Offer for up to the number of shares of Common Stock determined pursuant to Section 2.01(b). The consideration per share paid to any Tag-along Offeree shall be not less than the highest price paid per share to the Transferring Party in respect of its Common Stock. Each Tag-along Offeree that desires to accept the Tag-along Offer shall provide the Transferring Party with written revocable notice (a "**Tag-along Notice**") (specifying, subject to Section 2.01(b), the number of Common Stock which such Tag-along Offeree desires to sell) within 45 days after the Tag-along Notice Date, and shall simultaneously provide a copy of such Tag-along Notice to the Issuer, and the Issuer shall forward a copy of each such Tag-along Notice to the Transferring Party and each other Tag-along Offeree. Such Tag-along Notice may be withdrawn or modified at any time until the expiration of 45 days after the Tag-along Notice Date (the "**Tag-along Notice Period**"). At the expiration of the Tag-along Notice Period, the most recent Tag-along Notice shall become irrevocable and binding, and shall constitute an irrevocable acceptance of the Tag-along Offer by the Tag-along Offeree for the Common Stock specified therein.

As soon as practicable after the expiration of the Tag-along Notice Period, the Transferring Party shall notify the Issuer and each accepting Tag-along Offeree of the number of shares of Common Stock such Tag-along Offeree is obligated to sell or otherwise dispose of pursuant to the Tag-along Offer, such number to be calculated in accordance with Section 2.01(b). The Transferring Party shall notify the Issuer and each accepting Tag-along Offeree of the proposed date of any sale ("**Sale Date**") pursuant to this Section 2.01 no less than five days prior to the Sale Date, and each accepting Tag-along Offeree shall deliver to the Transferring Party the Duly Endorsed certificate or certificates representing the Common Stock to be sold or otherwise disposed of pursuant to such offer by such Tag-along Offeree, together with a limited power-of-attorney authorizing the Transferring Party to sell or otherwise dispose of such Common Stock pursuant to the terms of the Tag-along Offer and all other documents required to be executed in connection with such Tag-along Offer, no less than two days prior to the Sale Date.

(b) Each Tag-along Offeree shall have the right to sell, pursuant to any Tag-along Offer, a number of shares of Common Stock less than or equal to the product of the total number of Common Stock offered to be sold by the Transferring Party or offered to be purchased by the Tag-along Purchaser as set forth in such Tag-along Offer multiplied by a fraction (the "**Tag-along Ratio**"), (1) the numerator of which is the number of Common Stock then held by such Tag-along Offeree and (2) the denominator of which shall be an amount equal to the total number of shares of Common Stock then held by all Tag-along Offerees exercising rights under this Section 2.01 *plus* the total number of shares of Common Stock then held by the Transferring Party. The number of shares of Common Stock sold by each Tag-along Offeree in a Tag-along Offer shall be equal to the lesser of the number of shares of Common Stock calculated pursuant to the formula set forth in this Section 2.01(b) and the number of shares of Common Stock specified in such Tag-along Offeree's Tag-along Notice in respect of such Tag-along Offer. If at the termination of the Tag-along Notice Period any Tag-along Offeree shall not have accepted the Tag-along Offer, such Tag-along Offeree will be deemed to have waived any and all of its rights under this Section 2.01 with respect to the sale or other disposition of any of its Common Stock pursuant to such Tag-along Offer and no Common Stock held by any such Tag-along Offeree will be included in such Tag-along Offer.

(c) The Transferring Party shall have 45 days from the termination of the Tag-along Notice Period in which to consummate the sale contemplated by the Tag-along Offer to the Tag-along Purchaser at the price and on the terms set forth in the Tag-along Offer Notice; *provided* that if the purchase and sale of such Common Stock is subject to any prior regulatory approval, the time period during which

such purchase and sale may be consummated shall be extended until the expiration of five Business Days after all such approvals shall have been received. If, at the end of the period set forth in this Section 2.01(c), the Transferring Party has not completed the sale contemplated by the Tag-along Offer Notice, all the restrictions on sale or other disposition contained in this Agreement with respect to Common Stock owned by the Transferring Party shall again be in effect.

(d) Within one Business Day after the consummation of the sale or other disposition of the Common Stock pursuant to the Tag-along Offer, the Transferring Party shall notify the Tag-along Offeree thereof, shall remit to each of the Tag-along Offeree the total sales price specified in the Tag-along Offer Notice for the Common Stock of such Tag-along Offeree sold or otherwise disposed of pursuant thereto, and shall furnish such other evidence of such sale (including the time of completion) and the terms thereof as may be reasonably requested by the Tag-along Offeree.

(e) Notwithstanding anything contained in this Section 2.01, there shall be no liability on the part of a Transferring Party to any Tag-along Offeree if the sale of Common Stock pursuant to Section 2.01(c) is not consummated for whatever reason (other than as a result of a breach by the Transferring Party of any of its obligations under this Section 2.01). Whether to effect a sale of Common Stock pursuant to this Section 2.01 by a Transferring Party is in the sole and absolute discretion of the Transferring Party.

(f) Each Tag-along Offeree shall be required to bear its proportionate share of any escrows, holdbacks or adjustments in purchase price under the terms of the purchase agreement relating to such Tag-along Offer; *provided* that the amount borne by any Tag-along Offeree shall not exceed the net proceeds received by such Tag-along Offeree for the Common Stock sold by it pursuant to such Tag-along Offer.

SECTION 2.02. *Improper Transfer.* Any attempt to Transfer any Common Stock not in compliance with the provisions of Section 2.01 shall be null and void, and neither the Issuer nor any transfer agent of the Issuer shall register, or otherwise recognize in the Issuer's stock records, any such improper Transfer.

SECTION 2.03. *Termination.* The provisions of Article 2 shall terminate at such time as Limited Commerce, the Investors and their respective Permitted Transferees together own less than 25% of the Common Stock then outstanding.

ARTICLE 3
REGISTRATION RIGHTS

SECTION 3.01. *Demand Registration.* (a) *Request for Registration*. Limited Commerce, any Investor or any other Holder to which rights under this Section 3.01 have been transferred or assigned (a "**Demand Registrant**") may make a written request (the "**Registration Request**") for registration (a "**Demand Registration**") under the Securities Act of Registrable Securities having a value (determined in the good faith judgment of Limited Commerce (in the case of a Registration Request by Limited Commerce or any Transferee of Limited Commerce) or WCAS VII (in the case of a Registration Request by any Investor or any Transferee of any Investor)) of not less than $10 million (or, if less, all of the Registrable Securities then owned by such Demand Registrant). The Registration Request will specify the number of shares of Registrable Securities proposed to be sold and will also specify the intended method of disposition thereof; *provided* that the Issuer shall not be obligated to effect (i) more than two Demand Registrations for Investors and its Transferees in the aggregate, (ii) more than two Demand Registrations for Limited Commerce and its Transferees in the aggregate or (iii) a Demand Registration if counsel to the Issuer delivers to the Demand Registrant a written opinion in form and substance satisfactory to the Demand Registrant to the effect that registration under the Securities Act is not necessary in order for the Demand Registrant to sell the Registrable Securities in the manner contemplated by the Demand Registrant and, following such sale, the Transferee (assuming

such Transferee is not the Issuer or an affiliate of the Issuer within the meaning of the Securities Act) will be free to resell such Registrable Securities without restriction and without registration under the Securities Act.

(b) *Effective Registration*. For purposes of Section 3.01(a), a registration of Registrable Securities will not count as a Demand Registration until it has become effective under the Securities Act.

(c) *Underwriting*. If the Demand Registrant so elects, the offering of Registrable Securities pursuant to a Demand Registration shall be in the form of an underwritten offering. The Issuer Board shall select the book-running managing Underwriter in connection with such offering, and Limited Commerce and Investors (taken as a group) may each select one additional investment banking firm to serve as co-managing underwriter in connection with the offering.

(d) *Best Efforts of The Issuer*. The Issuer will use its best efforts to effect the registration and the sale of Registrable Securities in accordance with the intended method of disposition thereof as quickly as practicable in connection with any Registration Request.

SECTION 3.02. *Piggyback Registration.* If the Issuer proposes to file a registration statement under the Securities Act with respect to an offering of its Registrable Securities (i) for its own account (other than a registration statement on Form S-4 or S-8 (or any substitute form that may be adopted by the Commission)), or (ii) for the account of any holders of its capital stock, then the Issuer shall give written notice of such proposed filing to Limited Commerce, Investors and all Transferees of Limited Commerce or any Investor to which Limited Commerce or such Investor shall have transferred any of its rights under this Section 3.02 (a "**Piggyback Holder**") as soon as practicable (but in any event not less than 20 days before the anticipated filing date), and such notice shall offer such Piggyback Holders the opportunity to register any and all shares of Registrable Securities owned by such Piggyback Holders. If such Holders wish to register securities of the same class or series as the Issuer or such holders, such registration shall be on the same terms and conditions as the registration of the Issuer's or such holders' securities. No registration effected under this Section 3.02 shall relieve the Issuer of its obligations to effect Demand Registrations to the extent required by Section 3.01 hereof.

SECTION 3.03. *Reduction of Offering.* (a) If a Demand Registration involves an underwritten Public Offering and the managing Underwriter shall advise the Issuer and the Selling Holders that, in its view, (i) the number of shares of Common Stock requested to be included in such registration (including Common Stock which the Issuer proposes to be included) or (ii) the inclusion of some or all of the shares of Common Stock owned by the Holders, in either case, exceeds the largest number of shares of Common Stock which can be sold without having an adverse effect on such offering, including the price at which such shares or Common Stock can be sold (the "**Maximum Offering Size**"), the Issuer will include in such registration, in the priority listed below, up to the Maximum Offering Size:

(i) first, all shares of Common Stock requested to be registered by the Selling Holders (allocated, if necessary for the offering not to exceed the Maximum Offering Size, pro rata among such entities on the basis of the relative number of shares of Registrable Stock requested to be registered);

(ii) second, all Registrable Stock requested to be included in such registration by any other Holder (allocated, if necessary for the offering not to exceed the Maximum Offering Size, pro rata among such other Holders on the basis of the relative number of shares of Registrable Stock requested to be included in such registration); and

(iii) third, any Common Stock proposed to be registered by the Issuer.

(b) If a registration pursuant to Section 3.02 involves an underwritten Public Offering (other than in the case of an underwritten Public Offering requested by any Demand Registrant in a Demand Registration, in which case the provisions with respect to priority of inclusion in such offering set forth

in Section 3.03(a) shall apply) and the managing Underwriter advises the Issuer that, in its view, the number of shares of Common Stock which the Issuer and the selling Holders intend to include in such registration exceeds the Maximum Offering Size, the Issuer will include in such registration, in the following priority, up to the Maximum Offering Size:

(i) first, so much of the Common Stock proposed to be registered by the Issuer as would not cause the offering to exceed the Maximum Offering Size; and

(ii) second, all Registrable Stock requested to be included in such registration statement by any Holder pursuant to Section 3.02 or otherwise (allocated, if necessary for the offering not to exceed the Maximum Offering Size, pro rata among such entities on the basis of the relative number of shares of Registrable Stock requested to be so included).

SECTION 3.04. *Registration Procedures.* Whenever the Issuer is required to effect the registration of Registrable Securities pursuant to Section 3.01 or 3.02 hereof, the Issuer will use its best efforts to effect the registration and the sale of such Registrable Securities in accordance with the intended method of disposition thereof as quickly as practicable, and in connection with any such Registration Request:

(a) The Issuer will as expeditiously as possible prepare and file with the Commission a registration statement on any form for which the Issuer then qualifies or which counsel for the Issuer shall deem appropriate and which form shall be available for the sale of the Registrable Securities to be registered thereunder in accordance with the intended method of distribution thereof, and use its best efforts to cause such filed registration statement to become and remain effective for a period of not less than 120 days; *provided* that in the case of a Demand Registration, if the Issuer shall furnish to any Selling Holder a certificate signed by either its chairman, chief executive officer or president stating that in his good faith judgment it would materially adversely affect the Issuer or its shareholders for such a registration statement to be filed as expeditiously as possible, the Issuer shall have a period of not more than 120 days within which to file such registration statement measured from the date of receipt of the Registration Request in accordance with Section 3.01.

(b) The Issuer will, if requested, prior to filing a registration statement or prospectus or any amendment or supplement thereto, furnish to any Selling Holder and each Underwriter, if any, drafts of such documents proposed to be filed, and thereafter furnish to the Selling Holders and such Underwriter, if any, such number of copies of such registration statement, each amendment and supplement thereto (in each case including all exhibits thereto and documents incorporated by reference therein), the prospectus included in such registration statement (including each preliminary prospectus) and such other documents as any Selling Holders or such Underwriter may reasonably request in order to facilitate the sale of the Registrable Securities.

(c) After the filing of the registration statement, the Issuer will promptly notify any Selling Holders of any stop order issued or threatened by the Commission and take all reasonable actions required to prevent the entry of such stop order or to remove it if entered.

(d) The Issuer will use its best efforts to (i) register or qualify the Registrable Securities under such other securities or blue sky laws of such jurisdictions in the United States as any Selling Holders reasonably (in light of their intended plan of distribution) request and (ii) cause such Registrable Securities to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Issuer and do any and all other acts and things that may be reasonably necessary or advisable to enable the Selling Holders to consummate the disposition of their Registrable Securities; *provided*, that the Issuer will not be required to (i) qualify generally to

do business in any jurisdiction where it would not otherwise be required to qualify but for this paragraph (d), (ii) subject itself to taxation in any such jurisdiction other than taxation arising with respect to the registration of securities or (iii) consent to general service of process in any such jurisdiction.

(e) At any time when a prospectus relating to the sale of Registrable Securities is required to be delivered under the Securities Act, the Issuer will immediately notify the Selling Holders of the occurrence of an event requiring the preparation of a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and promptly make available to the Selling Holders and the Underwriters any such supplement or amendment. The Selling Holders agree that, upon receipt of any notice from the Issuer of the happening of any event of the kind described in the preceding sentence, the Selling Holders will forthwith discontinue the offer and sale of Registrable Securities pursuant to the registration statement covering such Registrable Securities until receipt of the copies of such supplemented or amended prospectus and, if so directed by the Issuer, the Selling Holders will deliver to the Issuer all copies, other than permanent file copies then in the possession of the Selling Holders, of the most recent prospectus covering such Registrable Securities at the time of receipt of such notice. In the event the Issuer shall give such notice, the Issuer shall extend the period during which such registration statement shall be maintained effective as provided in Section 3.04(a) hereof by the number of days during the period from and including the date of the giving of such notice to the date when the Issuer shall make available to the Selling Holders such supplemented or amended prospectus.

(f) The Issuer will enter into customary agreements (including an underwriting agreement in customary form) and take such other actions as are reasonably required in order to expedite or facilitate the disposition of such Registrable Securities.

(g) The Issuer will make available for inspection by any Selling Holder and any Underwriter participating in any disposition pursuant to a registration statement being filed by the Issuer pursuant to this Article 3 any attorney, accountant or other professional retained by any such Shareholder or Underwriter (collectively, the "**Inspectors**"), all financial and other records, pertinent corporate documents and properties of the Issuer's (collectively, the "**Records**") as shall be reasonably requested by any such Person, and cause the Issuer's officers, directors and employees to supply all information reasonably requested by any Inspectors in connection with such registration statement.

(h) The Issuer will furnish to the Selling Holders and to each Underwriter, if any, a signed counterpart, addressed to the Selling Holders or such Underwriter, of (i) an opinion or opinions of counsel to the Issuer and (ii) a comfort letter or comfort letters from the Issuer's independent public accountants, each in customary form and covering such matters as are customarily covered by opinions and comfort letters, as the Selling Holders or the managing Underwriter therefor reasonably request.

(i) The Issuer will otherwise use its best efforts to comply with all applicable rules and regulations of the Commission, and make available to its securityholders, as soon as reasonably practicable, an earnings statement covering a period of 12 months, beginning within three months after the effective date of the registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act.

(j) The Issuer will use its best efforts to cause all such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Issuer are then listed.

The Issuer may require any Selling Holder, and each Selling Holder agrees, to furnish promptly in writing to the Issuer such information regarding such Selling Holder, the plan of distribution of the Registrable Securities and other information as the Issuer may from time to time reasonably request or as may be legally required in connection with such registration.

SECTION 3.05. *Registration Expenses.* Registration Expenses incurred in connection with any registration made or requested to be made pursuant to this Article 3 will be borne by the Issuer, whether or not any such registration statement becomes effective.

SECTION 3.06. *Indemnification by the Issuer.* The Issuer agrees to indemnify and hold harmless each Selling Holder, its officers, directors and agents, and each Person, if any, who controls each such Selling Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all losses, claims, damages, liabilities and expenses caused by any untrue statement or alleged untrue statement of a material fact contained in any registration statement or prospectus relating to the Registrable Securities (as amended or supplemented if the Issuer shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or expenses are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information furnished in writing to the Issuer by or on behalf of any such Selling Holder expressly for use therein; *provided* that with respect to any untrue statement or omission or alleged untrue statement or omission made in any preliminary prospectus, or in any prospectus, as the case may be, the indemnity agreement contained in this paragraph shall not apply to the extent that any such loss, claim, damage, liability or expense results from the fact that a current copy of the prospectus (or, in the case of a prospectus, the prospectus as amended or supplemented) was not sent or given to the Person asserting any such loss, claim, damage, liability or expense at or prior to the written confirmation of the sale of the Registrable Stock concerned to such Person if it is determined that the Issuer has provided such prospectus and it was the responsibility of such Selling Holder to provide such Person with a current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) and such current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) would have cured the defect giving rise to such loss, claim, damage, liability or expense. The Issuer also agrees to indemnify any Underwriters of the Registrable Securities, their officers and directors and each Person who controls such underwriters on substantially the same basis as that of the indemnification of the Selling Holders provided in this Section 3.06.

SECTION 3.07. *Indemnification by Selling Holders.* Each Selling Holder agrees, severally but not jointly, to indemnify and hold harmless the Issuer, its officers, directors and agents and each Person, if any, who controls the Issuer within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Issuer to such Selling Holder, but only with reference to information related to such Selling Holder furnished in writing by or on behalf of such Selling Holder expressly for use in any registration statement or prospectus relating to the Registrable Securities, or any amendment or supplement thereto, or any preliminary prospectus. Each Selling Holder also agrees to indemnify and hold harmless Underwriters of the Registrable Securities, their officers and directors and each Person who controls such Underwriters on substantially the same basis as that of the indemnification of the Issuer provided in this Section 3.07.

SECTION 3.08. *Conduct of Indemnification Proceedings.* In case any proceeding (including any governmental investigation) shall be instituted involving any Person in respect of which indemnity may be sought pursuant to Section 3.06 or 3.07, such Person (the "**Indemnified Party**") shall promptly notify the Person against whom such indemnity may be sought (the "**Indemnifying Party**") in writing and the Indemnifying Party upon request of the Indemnified Party shall retain counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party and any others the Indemnifying Party may

designate in such proceeding and shall pay the fees and disbursements of such counsel related to the proceeding; *provided* that the failure of any Indemnified Party so to notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder except to the extent that the Indemnifying Party is materially prejudiced by such failure to notify. In any such proceeding, any Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the Indemnifying Party and the Indemnified Party shall have mutually agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the Indemnified Party and the Indemnifying Party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the Indemnifying Party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for all such Indemnified Parties, and that all such fees and expenses shall be reimbursed as they are incurred. In the case of any such separate firm for the Indemnified Parties, such firm shall be designated in writing by the Indemnified Parties. The Indemnifying Party shall not be liable for any settlement of any proceeding effected without its consent, but if settled with such consent, or if there be a final judgment for the plaintiff, the Indemnifying Party shall indemnify and hold harmless such Indemnified Parties from and against any loss or liability (to the extent stated above) by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Party shall have requested an Indemnifying Party to reimburse the Indemnified Party for fees and expenses of counsel as contemplated by the third sentence of this paragraph, the Indemnifying Party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 business days after receipt by such Indemnifying Party of the aforesaid request and (ii) such Indemnifying Party shall not have reimbursed the Indemnified Party in accordance with such request prior to the date of such settlement, unless the Indemnifying Party has contested such reimbursement obligation and provides reasonable assurances that such payment can be made upon resolution of such dispute. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement (x) includes an unconditional release of such Indemnified Party from all liability arising out of such proceeding and (y) provides that such Indemnified Party does not admit any fault or guilt with respect to the subject matter of such proceeding.

SECTION 3.09. *Contribution.* (a) If the indemnification provided for herein is for any reason unavailable to the Indemnified Parties in respect of any losses, claims, damages or liabilities referred to herein, then each such Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities (i) as between the Issuer and the Selling Holders on the one hand and the Underwriters on the other, in such proportion as is appropriate to reflect the relative benefits received by the Issuer and such Selling Holders on the one hand and the Underwriters on the other from the offering of the securities, or if such allocation is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits but also the relative fault of the Issuer and the Selling Holders on the one hand and of the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations and (ii) as between the Issuer on the one hand and any Selling Holder on the other, in such proportion as is appropriate to reflect the relative fault of the Issuer and of such Selling Holder in connection with such statements or omissions, as well as any other relevant equitable considerations. The relative benefits received by the Issuer and the Selling Holders on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total proceeds from the offering (net of underwriting discounts and commissions but before deducting

expenses) received by the Issuer and such Selling Holders bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the prospectus. The relative fault of the Issuer and the Selling Holders on the one hand and of the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Issuer and any Selling Holder or by the Underwriters. The relative fault of the Issuer on the one hand and any Selling Holder on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by such party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(b) The Issuer and each Selling Holder agree that it would not be just and equitable if contribution pursuant to this Section 3.09 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. he amount paid or payable by an Indemnified Party as a result of the losses, claims, damages or liabilities referred to in the immediately preceding paragraph hall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 3.09, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, and no Selling Holder shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities of such Selling Holder were offered to the public (less underwriters' discounts and commissions) exceeds the amount of any damages which such Selling Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

SECTION 3.10. *Participation in Underwritten Registrations.* No Person may participate in any underwritten registration hereunder unless such Person (a) agrees to sell such Person's securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (b) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements and these registration rights.

SECTION 3.11. *Current and Periodic Reports.* The Issuer covenants that it will file any reports required to be filed by it under the Securities Act and the Exchange Act. Upon the request of Limited Commerce or Investors, the Issuer will deliver to Limited Commerce or Investors, as the case may be, a written statement as to whether it has complied with such requirements.

SECTION 3.12. *Holdback Agreements.* If and to the extent requested by the Issuer, in the case of a non-underwritten public offering, and if and to the extent requested by the managing Underwriter or Underwriters, in the case of an underwritten public offering, the Holders agree not to effect, except as part of such registration, any public sale or distribution of the issue being registered or a similar security of the Issuer, or any securities convertible into or exchangeable or exercisable for such securities, including a sale pursuant to Rule 144, during the 14 days prior to, and during the 120-day period beginning on, the effective date of such registration statement.

ARTICLE 4
CORPORATE GOVERNANCE; COVENANTS

SECTION 4.01. *Composition of the Board.* (a) The Issuer Board shall consist of nine members. WCAS VII shall be entitled, but not required, to designate three members of the Issuer Board so long as it owns more than 20% of the Common Stock then outstanding. Limited Commerce and its Permitted Transferees (taken as a group) shall be entitled, but not required, to designate two members of the Issuer Board as long as they own more than 10% of the Common Stock then outstanding. Limited Commerce's right to designate members of the Issuer Board pursuant to this Section 4.01 shall terminate at such time as Limited Commerce and its Permitted Transferees (taken as a group) hold less than 5% of the Common Stock then outstanding. Limited Commerce and its Permitted Transferees (taken as a group) shall be entitled, but not required, to designate one member of the Issuer Board, as long as they own between 10% and 5% of the Common Stock then outstanding. Each Holder entitled to vote for the election of directors to the Board agrees that it will vote all of its Voting Securities or execute consents, as the case may be, and take all other necessary action (including causing the Issuer to call a special meeting of stockholders) in order to ensure that the composition of the Board is as set forth in this Section 4.01(a).

(b) Each Holder and the Issuer agrees that if, at any time, it is entitled to vote for the removal of directors of the Issuer, it will not vote any of its Voting Securities in favor of the removal of any director who shall have been designated or nominated pursuant to Section 4.01(a) unless such removal shall be for Cause or the Person entitled to designate or nominate such director shall have consented to such removal in writing. Removal for "**Cause**" shall mean removal of a director because of such director's (a) willful and continued failure to substantially perform his duties with the Issuer in his established position, (b) willful conduct which is significantly injurious to the Issuer, monetarily or otherwise, or (c) conviction for, or a guilty plea to, a felony.

(c) If, as a result of death, disability, retirement, resignation, removal (with or without Cause) or otherwise, there shall exist or occur any vacancy on the Issuer Board:

(i) the Person entitled under Section 4.01(a) to designate or nominate such director whose death, disability, retirement, resignation or removal resulted in such vacancy may designate another individual (the "**Nominee**") to fill such capacity and serve as a director of the Issuer; and

(ii) each Holder then entitled to vote for the election of the Nominee as a director of the Issuer agrees that it will vote all of its Voting Securities, or execute a written consent, as the case may be, in order to ensure that the Nominee be elected to the Issuer Board.

SECTION 4.02. *Action by the Board.* A quorum of the Issuer Board shall consist of a majority of the directors. All actions of the Issuer Board shall require the affirmative vote of at least a majority of the directors at a duly convened meeting of the Issuer Board at which a quorum is present or the unanimous written consent of the Issuer Board; *provided* that, in the event there is a vacancy on either such Board of Directors and an individual has been nominated to fill such vacancy, the first order of business shall be to fill such vacancy.

ARTICLE 5
MISCELLANEOUS

SECTION 5.01. *Headings.* The headings in this Agreement are for convenience of reference only and shall not control or affect the meaning or construction of any provisions hereof.

SECTION 5.02. *No Inconsistent Agreements.* The Issuer is not a party to and will not hereafter enter into any agreement with respect to its securities which is inconsistent with, or otherwise grant rights superior to, the rights granted to Limited Commerce under this Agreement. Each of the Issuer,

Limited Commerce and Investors represents that it is not and agrees that it will not become a party to any other agreement relating to the voting of Voting Securities.

SECTION 5.03. *Original Stockholders Agreement; Entire Agreement; Amendments; No Waivers.* (a) The Original Stockholders Agreement is hereby terminated; *provided* that each party thereto shall remain fully liable for any breach prior to the date hereof of any of its obligations thereunder.

(b) This Agreement embodies the entire agreement of the parties hereto with respect to the subject matter hereof and, except as set forth in Section 5.03(a), supersedes all prior agreements with respect thereto. This Agreement may be amended but only in a writing signed by the Investors, the Issuer and Limited Commerce. Any provision hereof may be waived but only in a writing signed by the party against which such waiver is sought to be enforced.

(c) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of

any rights or remedies provided by law.

SECTION 5.04. *Notices.* Any notice, request, instruction or other document to be given hereunder by any party hereto to another party hereto shall be in writing (including telecopier or similar writing) and shall be given to such party at its address, or telecopier number set forth on its signature page or, in the case of a Transfer to a Permitted Transferee, to the address, or telecopier number of the party executing the written agreement contemplated by the definition of "Holder" set forth in Section 1.01 hereof, or to such other address as the party to whom notice is to be given may provide in a written notice to the party giving such notice, a copy of which written notice shall be on file with the Secretary of the Issuer. Each such notice, request or other communication shall be effective (i) if given by telecopy, when such telecopy is transmitted to the telex or telecopy number specified in its signature page and the appropriate answerback or confirmation, as the case may be, is received, (ii) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid addressed as aforesaid or (iii) if given by any other means, when delivered at the address specified in this Section 5.04.

SECTION 5.05. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of law principles.

SECTION 5.06. *Severability.* The invalidity or unenforceability of any provisions of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement in such jurisdiction or the validity, legality or enforceability of this Agreement, including any such provision, in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

SECTION 5.07. *Successors, Assigns, Transferees.* (a) The provisions of this Agreement shall be binding upon and accrue to the benefit of the parties hereto and their respective heirs, successors and permitted assigns. Neither this Agreement nor any provision hereof shall be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

(b) This Agreement shall not be assignable or otherwise transferable by any party hereto, except that any Person acquiring shares of Common Stock who is required by the terms of the definition of "Holder" set forth in Section 1.01 hereof to become a party hereto shall execute and deliver to the Issuer an agreement to be bound (substantially in the form of Exhibit A) by this Agreement, and any Holder who ceases to beneficially own any Shares shall cease to be bound by the terms hereof (other than Sections 3.06, 3.07, 3.08 and 3.09).

SECTION 5.08. *Counterparts; Effectiveness.* This Agreement may be executed in any number of counterparts, each of which shall be an original with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other parties hereto.

SECTION 5.09. *Fees and Expenses.* Except as set forth herein, all fees and expenses incurred by any party hereto in connection with the preparation of this Agreement and the transactions contemplated hereby and all matters related thereto shall be borne by the party incurring such fees or expenses.

SECTION 5.10. *Recapitalizations.* If any capital stock or other securities are issued in respect of, or in exchange or substitution for, any Common Stock by reason of any reorganization, recapitalization, reclassification, merger, consolidation, spin-off, partial or complete liquidation, stock dividend, split-up, sale of assets, distribution to stockholders or combination of the Common Stock or any other change in capital structure of the Issuer, appropriate adjustments shall be made with respect to the relevant provisions of this Agreement so as to fairly and equitably preserve, as far as practicable, the original rights and obligations of the parties hereto under this Agreement.

SECTION 5.11. *Remedies.* The parties hereby acknowledge that money damages would not be adequate compensation for the damages that a party would suffer by reason of a failure of any other party to perform any of the obligations under this Agreement. Therefore, each party hereto agrees that specific performance is the only appropriate remedy under this Agreement and hereby waives the claim or defense that any other party has an adequate remedy at law.

SECTION 5.12. *Jurisdiction.* Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, any of the Transaction Documents may be brought against any of the parties in the United States District Court for the Southern District of New York or any state court sitting in The City of New York, Borough of Manhattan, and each of the parties hereby consents to the exclusive jurisdiction of such court (and of the appropriate appellate courts) in any such suit, action or proceeding and waives any obligation to venue laid therein. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the State of New York. Without limiting the foregoing, the parties agree that service of process upon such party at the address referred to in Section 5.04, together with written notice of such service of such party, shall be deemed effective service of process upon such party.

SECTION 5.13. *WCAS Information*. The Investors hereby represent that, as of the date hereof, none of the individual partners and employees of any Investor own, and covenant that after the date hereof such individual partners and employees will not, hold more than 5.0% of the Common Stock outstanding at any time (other than (i) as a result of a distribution in kind of such shares of Common Stock to all partners of an Investor or (ii) as a result of open-market purchases).

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

ALLIANCE DATA SYSTEMS CORPORATION

By: /s/ J. MICHAEL PARKS

Title: Chief Executive Officer and President

LIMITED COMMERCE CORP.

By: /s/ [ILLEGIBLE]

Title:
Address:
c/o The Limited, Inc.
Three Limited Parkway
Columbus, OH 43230
Attention: General Counsel
Telephone: 614-415-7199
Fax: 614-415-7188

By: /s/ JONATHAN M. RATHER AS ATTORNEY IN FACT

Title: General Partner

WELSH, CARSON, ANDERSON, STOWE VII, L.P.

By: /s/ JONATHAN M. RATHER

Title: General Partner

WELSH, CARSON, ANDERSON, STOWE VIII, L.P.

By: /s/ JONATHAN M. RATHER

Title: Managing Member

WCAS INFORMATION PARTNERS, L.P.

By: /s/ JONATHAN M. RATHER AS ATTORNEY IN FACT

Title: General Partner

By: _____

Title: General Partner

WCAS CAPITAL PARTNERS II LP

By: /s/ JONATHAN M. RATHER AS ATTORNEY IN FACT

Title: General Partner

WCAS CAPITAL PARTNERS III LP

By: /s/ JONATHAN M. RATHER

Title: Managing Member

EXHIBIT A

FORM OF AGREEMENT TO BE BOUND [DATE]

To the Parties to the
Stockholders Agreement
dated as of , 2000

Dear Sirs:

Reference is made to the Stockholders Agreement dated as of , 2000 (the "**Stockholders Agreement**"), by and among Alliance Data Systems Corporation, (the "**Issuer**"), Limited Commerce, Inc. ("**Limited Commerce**") and Welsh, Carson, Anderson & Stowe VI, L.P. ("**WCAS VI**"), Welsh, Carson, Anderson & Stowe VII, L.P. ("**WCAS VII**"), Welsh, Carson, Anderson & Stowe VIII, L.P. ("**WCAS VIII**"), WCAS Information Partners, L.P. ("**WCAS IP**"), WCAS Capital Partners II LP ("**CP II**") and WCAS Capital Partners III LP (together with WCAS VI, WCAS VII, WCAS VIII, WCAS IP and CP II, the "**Investors**"). Capitalized terms not defined herein have the meanings assigned to them in the Stockholders Agreement.

In consideration of the covenants and agreements contained in the Stockholders Agreement and the transfer of the common stock, par value $0.01 per share, of the Issuer (the "**Common Stock**") to the undersigned by [Transferor], the undersigned hereby confirms and agrees to be bound by all of the provisions thereof.

This letter shall be construed and enforced in accordance with the laws of the State of New York.

Very truly yours,

_____

[Transferee]

Address/Telephone and Fax Information:
[To be provided]

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Alliance Data Systems

2001 Incentive Compensation Plan

Plan Philosophy

The Alliance Data System's Incentive Plan ("Plan") is designed to provide an opportunity for additional compensation for eligible associates. The intent of the Plan is to:

- Improve financial performance and associate satisfaction as integral elements to our business strategy
- Improve alignment with company goals and strategic imperatives
- Link a portion of incentive opportunity to company, business unit, associate satisfaction and individual results, and
- Provide an opportunity for associates to share in the success they help create.

Effective Date

The Plan Year is January 1, 2001 through December 31, 2001.

Eligibility

Associates are covered by this Plan if they are:

- In pay grades 1-11, 21-23, or 32-35.
- Employed by Alliance Data Systems before October 1, 2001.
- Newly hired associates or associates promoted into eligible pay grades for the first time *before October 1* (prorated based on the number of months they are covered by the Plan).
- Performing at a satisfactory level as determined by the Company.
- On active status on the date of award distribution or eligible under guidelines for retirement, disability or leave of absence.
- Part-time associates working a schedule equal to a minimum of 25 hours per week are eligible for the plan.

Associates are not eligible if they:

- Are participating in a sales commission or other incentive plan, unless approved by the EVP/President of a Line of Business (LOB) or of a Business Support Group (BSG).
- Are temporary or contract employees.
- Are hired on or after October 1, 2001 or are promoted into an incentive eligible pay grade on or after October 1, 2001.

Compensation

Annualized base pay as of October 1, 2001 will be used as part of the incentive compensation calculation. The Incentive Compensation (IC) target percentage(s) will be applied to the October 1, 2001 base salary for purposes of calculating the dollar target amount.

Incentive Compensation (IC) Targets

Each participant has an incentive compensation target. The Compensation Committee of the Board of Directors assigns IC targets for positions on the Executive Committee. The LOB/BSG Executive Vice President approves IC targets for other positions using such factors as job function, reporting level and pay grade.

Unless otherwise determined, IC targets are shown in the following table. At the beginning of the plan year or at time of hire or promotion, the associate's manager will communicate what the IC percentage will be for the year. IC targets are set at either the low end or high end of the range; for example, someone in grade 8 will have either a 10% target or a 15% target. Incremental numbers between the IC ranges are not used for IC target percentages, i.e., 12.5% would not be set as an IC target.

Grade Level	IC Target (% of 10-1-01 Base Salary)
Member of Executive Committee	Determined by the Board's Compensation Committee
3	35%-45%
4	25%-35%
5	15%-25%

8-10, 21-23, and 33-35	10%-15%
11 & 32	5%-10%

Status Changes

Status changes can affect the amount of incentive a participant receives. Status changes include:

- Transfers between Lines of Business
- New hires
- Changes in position involving a change in incentive percentage targets
- Leave of absence
- Terminations due to retirements, deaths, disabilities, staff reduction, or position elimination

- **Transfers**

The LOB or BSG a participant is assigned to as of October 1, 2001 will be the area used to determine any payments dependent upon LOB/BSG level of performance (see Weightings Chart). Year-end performance for the LOB/BSG will be used to calculate the incentive amount to be paid for this component. No proration will be done for the amount of time spent in another LOB/BSG over the Plan year.

- **New Hires or IC Target Changes**

If an associate is hired between January 1 and October 1, 2001 into an IC eligible position, the base salary as of October 1, 2001 will be used the calculate the IC dollar target. This dollar target will be prorated by the number of whole months worked in 2001. For example, if an associate is hired on March 12, the IC dollar target will be prorated by $^{9}/_{12}$ (the months of April-December worked as whole months).

- **IC Target Changes**

If there is a grade level change during the performance period and this triggers a change in incentive percentage target, the incentive will be prorated for the period of time the associate performed in each grade level (starting the first of the month following the change). Note that changes in incentive percentage targets *after October 1, 2001 will* not be used to calculate incentive compensation.

The base salary as of October 1, 2001 will still be used to calculate the dollar target, even if there is a corresponding change in base salary at the time the incentive percentage target is changed. For example, a grade level change in April results in an IC percentage target change from 5% to 10% and

a base salary change from $35,000 to $40,000. The base salary on October 1 is $40,000. The dollar target is calculated by:

$40,000 × 5% × $^{4}/_{12}$ =	667
$40,000 × 10% × $^{8}/_{12}$ =	2,667
TOTAL dollar target:	3,334

- **Leave of Absence**

If a participant takes a leave of absence in excess of 30 consecutive days, either paid or unpaid, during the performance period, he or she may be eligible for a prorated award at the discretion of the Executive Committee member for that line of business and Corporate Compensation.

- **Terminations**

If a participant retires, becomes disabled or dies during the performance period, or is terminated due to a staff reduction or position elimination, he or she may be eligible for a prorated award at the discretion of the Executive Committee member for that line of business and Corporate Compensation. In the event of death, any incentive award is made to the beneficiary named in the company paid life insurance program.

Weightings

Incentive Compensation objectives are weighted to reflect the position's impact on company, business unit and individual goals.

2001 Weightings	Senior Leadership Team (directors, senior directors, vice presidents and SVP's)		Managers (with direct supervisory responsibility)	All Other Eligible Exempts
	LOB	BSG		
Company EBITDA	25%	50%	25%	25%
LOB or BSG Financial Drivers*	50%	25%	25%	25%
Associate Satisfaction**	25%	25%	25%	
Individual Expectations			25%	50%

* The LOB/BSG executive has the flexibility to establish targets—by individuals—that are important for success for their respective area.

** Some participants, such as NAMs, may have more emphasis on client relationships than Associate Satisfaction. Each LOB/BSG executive can determine how they want to distribute the weightings for these positions, other than 25% must still be tied to Company EBITDA.

Payment Components

All performance goals should be established and communicated at the beginning of the Plan year or within 30 days of becoming a participant in the Plan. The degree to which these performance goals are accomplished may have an impact on the level of incentive earned from the Plan.

Company Financial Performance: Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA) is the measurement that determines 25%-50% of a participant's payment (see Weightings Chart above). The Board of Directors of the company approves the EBITDA target to be achieved for minimum, target and maximum payouts.

LOB or BSG Financial Drivers: There are a number of financial measures that can be used to determine success for a particular area or individual. Your President or Executive Vice President will determine what measures will be used for your LOB, BSG, or you individually.

Associate Satisfaction: In 2000, the first associate satisfaction survey was conducted as part of the Employer of Choice initiative. From the analysis of this survey, 18 items were identified as being "predictive" items; if the percent favorable scores on these 18 items increases, there should be notable movement toward realizing our goal of being recognized as an Employer of Choice within our industry peer group. A numeric target has been set either by LOB/BSG, or if appropriate, by facility. A list of the 2001 targets can be found in Attachment A.

These targets have not been set by using a flat percentage increase over the average score of the same 18 items from the 2000 survey, but as a percent of the "potential for change". We have set a goal for Alliance Data Systems to grow our associate satisfaction by 16% a year. Each of the targets in Attachment A were calculated using this same growth percentage. As an example, here is the formula used to determine the 2001 target for the Alliance consolidated score of 64:

2000 Base Score* = 57

100 - 57 = 43
(100 - 2000 Base Score* = Potential for Change)

43 × 16% = 6.88
(Potential for Change × Alliance Organizational Improvement = Increase Needed)

57 + 7 = 64
(2000 Base Score* + Increase Needed = Target Percent Favorable for 2001 Survey)

** Average of 18 items selected for 2001 Survey*

Individual Expectations: From the Weightings chart, you can see some participants will have 25%-50% of their payment based upon the achievement of individual expectations or team strategic imperatives (or action steps to accomplish the strategic imperatives) as determined between the participant and his or her manager. A form is attached to facilitate the setting of the Individual Expectations. If a participant is being held accountable for a company-level strategic imperative (or an action item to accomplish the strategic imperative for the LOB/BSG), that form may also be used. **Regardless of the form used, what will be required at the end of 2001 is an overall percentage of achievement of the Individual Expectations to determine the dollar payment for this component.**

Payment Calculations

Attachment B: Identifies the relationship between level of performance and the percentage to be paid for the achievement of Company EBITDA, LOB or BSG financial drivers, and Individual Expectations targets. A minimum of 80% must achieved for any payment to be received; performance of 120% or greater equals the maximum payment of 150%. In addition, in order for Individual Expectations to be achieved at something greater than 100%, the Company EBITDA, LOB or BSG financial drivers results must be 100% or better.

Attachment C: Identifies the relationship between level of performance and the percentage to be paid for achievement of Associate Satisfaction Survey result targets. **If there is no movement from the**

2000 Base Score, or the results drop below the 2000 Base Score, there will be no payment for this component.

Payment Timing

Incentive compensation earned for the 2001 Plan year is paid in the first quarter of the following year. A participant must be actively employed on the date payment is made to receive their award. Any participant who is on an approved leave of absence or disability, but still on active status, will receive their payment even if they are not actively at work on the date payment is made.

Other Terms and Conditions

- All decisions by the Company will be final in the interpretation and administration of the Plan and shall lie within the Company's sole and absolute discretion. Decisions shall be final, conclusive, and binding on all parties concerned.
- Participant's rights under the Plan may not be assigned or transferred in any way.
- The Alliance Data System's 2001 Incentive Plan may be amended, modified, suspended or terminated by the Company at any time, without prior consent by or prior notice to associates. The Compensation Committee at its sole discretion may change objectives at any time without prior consent by or prior notice to associates.
- The Plan shall be unfunded. The Company shall not be required to establish any special or separate fund or to make other segregation of assets to assure the payment of the amounts under the Plan. Rights to the payment of amounts under the Plan shall be no greater than the rights of the Company's general creditors.
-

Texas state law governs the validity, construction, interpretation, administration, and effect of the Plan, and rights relating to the Plan shall be governed by the substantive laws, but not the choice of law rules, of the State of Texas.

- All applicable employment and tax deductions plus 401(k) contribution deferrals will be withheld from the incentive payout.

- No associate has the right or is guaranteed the right to participate in the Plan by virtue of being an associate or fulfilling any specific position with Alliance Data Systems. Selection for participation in the Plan is solely within the discretion of the Compensation Committee. Alliance Data Systems may offer participation in the Plan to additional associates or terminate the participation of any Participant in the Plan at any time during the Plan Year.

- Revenues and earnings classified as "windfalls" or business losses may or may not be excluded in whole or in part from the calculation of EBITDA at the discretion of the Compensation Committee.

- Notice to participate in the Plan shall not impair or limit the Company's rights to transfer, promote, or demote plan participants to other jobs or to terminate their employment. Nor shall it create any claim or right to receive any payment under the Plan or any right to be retained in the employ of Alliance Data Systems.

- The Plan is established for the current fiscal year. There shall be no obligation on the part of the Company to continue the Plan in the same or a modified form for any future years.

- In the event that a Participant has a dispute concerning the administration of this Plan, it shall first be submitted in writing to the Executive Vice President and Chief Administrative Officer of the Company. In the event that this Executive Vice President and Chief Administrative Officer does not provide a response satisfactory to the Participant within 30 business days, the

Participant may submit the dispute in writing within five business days thereafter to the Executive Committee, whose decision regarding the dispute shall be final and binding on each Participant or person claiming under the Plan.

- The Plan is effective January 1, 2001, and supersedes and replaces all previous Incentive Compensation Plans. All such previous plans, unless earlier terminated, are terminated at midnight, December 31, 2000. If not renewed by the Compensation Committee or their designated representative, the Plan will automatically terminate on December 31, 2001.

- In the event the associate's performance is below satisfactory standards, he or she may receive reduced or no incentive compensation regardless of the performance results of the company, LOB, or BSG, at the discretion of the company.

Attachment A

TARGET PERCENT FAVORABLE FOR 2001 ASSOCIATE SATISFACTION
FOR 100% PAYOUT ON IC COMPONENT

Group	2001 Target
Mike Parks (Alliance consolidated)	64
BP&D Consolidated	58
Consumer Data Base Marketing	58
CIS Consolidated	61
San Antonio	59
Reynoldsburg	64
All Other	60
Network Consolidated	57
Buffalo Grove	59
Johnson City	59
Lenexa	61
All Other	54
Retail Consolidated	66
Broad Street	65
Lenexa	64
Northglenn	69
Reno	73
Voorhees	64
Westerville Operations	74
Bank Operations	56
Other Operations	62
All Other	64
Utilities Consolidated	62
Walnut Street	62
All Other	62
Corporate Staff (combines Finance, HR, and Legal)	65

2000 base line scores can be obtained from your Human Resource Executive if you have questions about how the 2001 target was set.

Attachment B

PERFORMANCE/PAYOUT TABLE FOR EBITDA, FINANCIAL DRIVERS AND INDIVIDUAL EXPECTATIONS

% of Objective(s) Achieved (Company, LOB/BSG and Individual*)	% Payout (Company, Business Unit and Individual)
> 80%	0%
80% (Threshold Perf.)	65% (Threshold Payout)
81%	67%
82%	69%
83%	70%
84%	72%
85%	74%
86%	76%
87%	77%
88%	79%
89%	81%
90%	83%
91%	84%
92%	86%
93%	88%
94%	89%
95%	91%
96%	93%
97%	95%
98%	96%
99%	98%
100% (Target Perf.)	100.0% (Target Payout)
101%	102.5%
102%	105.0%
103%	107.5%
104%	110.0%
105%	112.5%
106%	115.0%
107%	117.5%
108%	120.0%
109%	122.5%
110%	125.0%
111%	127.5%
112%	130.0%
113%	132.5%
114%	135.0%
115%	137.5%
116%	140.0%
117%	142.5%
118%	145.0%
119%	147.5%
120% (Max Perf. Payable)	150.0% (Maximum Payout)
> 120%	150.0%

* Company EBITDA or LOB/BSG financial drivers must be at 100% or better in order for Individual Expectations to be paid above 100% of target.

Attachment C

Payout Target for Associate Satisfaction Results

% Achievement	% Payout
2000 Base Score or less	0%
2001 Score of 60-63 OR 90-92% of target	25%
2001 Score of 64-66 OR 93-95% of target	50%
2001 Score of 67-70 OR 96-98% of target	75%
2001 Score of 71-75 OR 99-102% of target	100%
2001 Score of 76-79 OR 103-109% of target	125%
2001 Score of 80 or greater	

OR	150%
110% or greater of target	

The 2001 survey results must be greater than your 2000 base score for any payment to be realized. There are two thresholds for payment. Either the 2001 score falls into the ranges above **or** the results achieved in 2001 fall into the percentage achieved of your target, whichever results in the higher pay out. Examples:

Example One:	Example Two:
2000 Base Score: 63	2000 Base Score: 51
2001 Target: 69	2001 Target: 59
2001 Results: 66 (96% of target)	2001 Results: 54 (92% of target)
Payment would be at 75%	Payment would be at 25%

Alliance Data Systems
2001 Incentive Compensation Plan
Individual Expectations

Name:	**Target IC (%)**
Position Title:	**Grade Level:**

		Ratings		
(a) Specific Expectations/Standards of Measure (Deliverables to be Achieved)	**(b) Accomplishments/Results (Actual Results Achieved in Performance Period)**	**(c) Weighting %**	**(d) Actual Perf. %**	**(e) Overall Perf. Score % (c x d)**
1.				
2.				
3.				
4.				
5.				
		100%		
	Total Score on Specific Expectations (add column "e"); >			

Signed by: Associate Manager

QuickLinks

ALLIANCE DATA SYSTEMS CORPORATION

LOYALTY MANAGEMENT GROUP CANADA INC.

FOURTH AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT

This Fourth Amendment to Amended and Restated Credit Agreement (herein, the *"Amendment"*) is entered into as of March 15, 2002, among Alliance Data Systems Corporation, a Delaware corporation (the *"US Borrower"*), Loyalty Management Group Canada Inc., an Ontario corporation (the *"Canadian Borrower"*; the US Borrower and the Canadian Borrower being referred to herein individually as *"Borrower"* and collectively as the *"Borrowers"*), the Banks party to the Credit Agreement (as such term is defined below) and Harris Trust and Savings Bank, as a Bank and in its capacity as the Administrative Agent and Collateral Agent under the Credit Agreement (the *"Administrative Agent"*).

PRELIMINARY STATEMENTS

A. The Borrowers, the Administrative Agent, and the Banks are currently party to a certain Amended and Restated Credit Agreement, dated as of July 24, 1998, and amended and restated as of October 22, 1998 (as amended, restated, modified and supplemented from time to time, the *"Credit Agreement"*). All capitalized terms used herein without definition shall have the same meanings herein as such terms have in the Credit Agreement.

B. The Borrowers have requested that the Administrative Agent and the Banks amend certain covenants and make certain other amendments to the Credit Agreement, and the Administrative Agent and the Banks party hereto are willing to do so under the terms and conditions set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. AMENDMENTS.

Upon the satisfaction of the conditions precedent set forth in Section 3 hereof, the Credit Agreement shall be and hereby is amended as follows:

1.1. The definition of "Change of Control" appearing in Section 1.1 of the Credit Agreement shall be amended and restated in its entirety to read as follows:

> *"Change of Control"* means (i) the US Borrower shall cease to own 100% of the capital stock of the Canadian Borrower, or (ii) the Welsh, Carson, Anderson & Stowe Partnerships in the aggregate shall fail to own a majority of the outstanding common stock of the US Borrower; *provided*, that (x) common stock owned by employees (either individually or through employee stock ownership or other stock based benefit plans) of the US Borrower and (y) common stock of the US Borrower issued to the public pursuant to one or more public offerings shall not be included in the calculation of ownership interests for purposes of this definition or any "change of control".

1.2. Section 1.1 of the Credit Agreement shall be amended by adding the following new definition thereto in alphabetical order:

> *"364-day Revolver"* means a short-term revolving loan facility in an aggregate principal amount not exceeding U.S. $50,000,000 (or its Canadian dollar equivalent) at any one time outstanding extended to the US Borrower or the Canadian Borrower pursuant to a credit agreement by and among the lenders party thereto, the US Borrower and the Canadian Borrower on terms and conditions, including pricing, identical in all material respects to this Agreement, *provided* that as a condition to the establishment and maintenance of such credit facility there shall be in full force and effect an intercreditor agreement between such lenders and the Banks hereunder in form and substance satisfactory to the Administrative Agent.

1.3. Section 2.8(B) of the Agreement shall be amended by adding the following as clause (e) thereto:

> "(e) Any reduction of the Total Revolving Loan Commitment shall be made on a pro rata basis between this Agreement and the 364-day Revolver."

1.4. Section 6.9 of the Credit Agreement shall be amended by deleting the period at the end of clause (j) and inserting in its place a semicolon, and thereafter adding the following new clauses (k) and (l) immediately following clause (j) which clauses shall read as follows:

> (k) Liens securing the 364-day Revolver ranking *pari passu* with the Obligations hereunder; and
>
> (l) Liens securing Indebtedness permitted under Section 6.16 (vii) hereof.

1.5. Section 6.12(a) of the Credit Agreement shall be amended and restated in its entirety to read as follows:

> (a) *Leverage Ratio*. The US Borrower shall not permit its Leverage Ratio at any time during any fiscal quarter of the US Borrower to exceed 3.0:1.0.

1.6. Section 6.13 of the Credit Agreement shall be amended and restated in its entirety to read as follows:

> *Section 6.13. Adjusted Consolidated Net Worth.* The US Borrower will not permit its Adjusted Consolidated Net Worth at any time to be less than the sum of (i) $500,000,000, plus (ii) an amount equal to 50% of the amount by which the US Borrower's quarterly Consolidated Net Income (determined at the end of each fiscal quarter, commencing March 31, 2002) exceeds zero, plus (iii) 100% of any proceeds from equity issuances of capital stock of the US Borrower (other than (A) the Eligible IPO and (B) in connection with exercises of stock options of the officers, directors and employees of the US Borrower in the ordinary course of business and (C) proceeds of equity issuances of capital stock used to pay the WCAS Subordinated Note pursuant to Section 6.24 hereof).

1.7. Section 6.16 of the Credit Agreement shall be amended and restated in its entirety to read as follows:

> *Section 6.16. Debt Limitation.* The US Borrower shall not, and shall not permit any of its Subsidiaries, whether now existing or created in the future, to create or retain any Debt other than (i) any Debt created or retained by the US Borrower or such Subsidiary on or before May 2, 1998, (ii) any Debt created or retained by the US Borrower or such Subsidiary in connection with the funds made available to the Borrowers pursuant to this Agreement (including any intercompany loans of such funds), *provided* that such loans made by the US Borrower and its Subsidiaries to (x) the Canadian Borrower shall not exceed $20,000,000 and (y) ADSNZ shall not exceed $1,500,000 in aggregate principal amount outstanding at any time, and all such loans from the US Borrower to WFNB shall be made pursuant to and evidenced by the WFNB Note, (iii) issuances by WFNB of certificates of deposit to the extent no Default results therefrom pursuant to the other covenants contained in this Article 6, (iv) intercompany loans not otherwise permitted by clause (ii) of this Section 6.16 made by the US Borrower to ADSI and WFNB, *provided* that any such intercompany loans to WFNB shall be made pursuant to and evidenced by the WFNB Note, (v) Debt consisting of amounts in excess of $100,000,000 owing to Brylane, L.C. pursuant to the US Borrower's deferred payment plan with Brylane, L.C. as in effect on the Original Effective Date, (vi) Debt of the US Borrower outstanding pursuant to the WCAS Subordinated Note in an aggregate principal amount not to exceed $52,000,000, less all repayments of principal thereof, (vii) obligations of the US Borrower or its Subsidiaries as lessee in respect of leases of property which are

capitalized in accordance with generally accepted accounting principles and shown on the balance sheet of the US Borrower and its Subsidiaries and which in the aggregate do not at any one time exceed 10% of the Adjusted Consolidated Net Worth of the US Borrower at such time, (viii) the 364-day Revolver, and (ix) other unsecured Debt of the US Borrower and/or its Subsidiaries not to exceed $10,000,000 in the aggregate outstanding at any time. Notwithstanding anything to the contrary above in this Section 6.16, the US Borrower may, subject to the applicability of the other covenants contained in this Agreement, issue Permitted Subordinated Debt.

1.8. Section 6.17 of the Credit Agreement shall be amended and restated in its entirety to read as follows:

Section 6.17. Interest Coverage Ratio. The US Borrower will not permit its Interest Coverage Ratio for any period of four consecutive fiscal quarters, as determined for such four-quarter period ending on the last day of any fiscal quarter, to be less than 3.5:1.0.

1.9. Section 6.24 of the Credit Agreement shall be amended and restated in its entirety to read as follows:

Section 6.24. Limitation on Voluntary Payments and Modifications of Indebtedness; Modifications of Certain Other Agreements; etc. The US Borrower will not, and will not permit any of its Subsidiaries to, (i) make (or give any notice in respect of) any voluntary or optional payment or prepayment on or redemption or acquisition for value of, or make any pre-payment or redemption as a result of any asset sale, change of control or similar event of (including, in each case, without limitation, by way of depositing with the trustee with respect thereto or any other Person, money or securities before due for the purpose of paying when due) the Subordinated Note, the WCAS Subordinated Note or any Permitted Subordinated Debt or (ii) amend or modify, or permit the amendment or modification of, any provision of the Equity Issuance Documents, the Subordinated Note (other than any amendments thereto made in accordance with Section 6.25), the WCAS Subordinated Note, the License Agreements or the WFNB Note; *provided, however,* the US Borrower may prepay the (x) Subordinated Note in the aggregate principal amount not to exceed $50,000,000 on or before April 30, 2002, and (y) WCAS Subordinated Note in the aggregate principal amount not to exceed $52,000,000, on or before December 31, 2002, if, and only if, the prepayment of the WCAS Subordinated Note is made directly or indirectly from the proceeds of the US Borrower's follow-on equity offering.

1.10. The pricing grid set forth on page 3 of Appendix I of the Credit Agreement shall be amended and restated in its entirety to read as set forth below:

Status	**Level I**
Leverage Ratio	<3.00
Euro-Dollar Margin for B Term Loans	3.25%
Euro-Dollar Margin for All Other Loans	1.50%
Base Rate Margin for B Term Loans	2.25%
Base Rate Margin for all Other Loans	0.50%
Swing Margin	.625%
Applicable Commitment Fee Percentage	.30%

SECTION 2. DISSOLUTION OF HSI AND HTLI.

The Borrowers and the Guarantors represent and warrant to the Administrative Agent and the Bank that HSI and HTLI have integrated all of their assets with and into ADSI, and as a result HSI and HTLI have no material assets or liabilities and are to be dissolved on or before May 31, 2002. The Banks hereby consent to the dissolution of HSI and HTLI so long as HSI and HTLI are dissolved on or before May 31, 2002, at which time HSI and HTLI shall automatically be released as Guarantors hereunder and, in connection therewith, the Collateral Agent is hereby authorized to release any financing statements filed against HSI and HTLI as the Borrowers may reasonably request (and at the Borrowers expense).

SECTION 3. CONDITIONS PRECEDENT.

The effectiveness of this Amendment shall be subject to the satisfaction of the following conditions precedent:

(a) The Borrowers, the Guarantors, the Administrative Agent, and the Banks shall have executed and delivered this Amendment.

(b) The US Borrower shall have paid to the Administrative Agent (for the account of each Bank which executes and delivers this Amendment by the close of business on March 14, 2002), an amendment fee in an amount equal to 0.25% of the sum of such Bank's outstanding Term Loans plus such Bank's Revolving Loan Commitment.

(c) All legal matters incident to the execution and delivery of this Amendment and the instruments and documents contemplated hereby shall be satisfactory to the Banks and their counsel.

SECTION 4. REPRESENTATIONS.

In order to induce the Banks to execute and deliver this Amendment, each Borrower hereby represents to each Bank that as of the date hereof, after giving effect to this Amendment, the representations and warranties set forth in Section 4 of the Credit Agreement are and shall be and remain true and correct (except that the representations contained in Section 4.4 shall be deemed to refer to the most recent financial statements of each Borrower delivered to the Administrative Agent) and, after giving effect to this Amendment, (i) each Borrower is in full compliance with all of the terms and conditions of the Credit Agreement and (ii) no Default or Event of Default has occurred and is continuing under the Credit Agreement.

SECTION 5. MISCELLANEOUS.

(a) Each Borrower and Guarantor has heretofore executed and delivered to the Administrative Agent and the Banks certain Security Documents and the other Credit Documents and each Borrower and Guarantor hereby acknowledges and agrees that, notwithstanding the execution and delivery of this Amendment, except as described in Section 2 hereof, the Security Documents and the other Credit Documents remain in full force and effect and the rights and remedies of the Administrative Agent, the Collateral Agent and the Banks thereunder, the obligations of each Borrower and Guarantor thereunder, and the liens and security interests created and provided for thereunder remain in full force and effect and shall not be affected, impaired or discharged hereby. Nothing herein contained shall in any manner affect or impair the priority of the liens and security interests created and provided for by the Security Documents and the other Credit Documents as to the indebtedness which would be secured thereby prior to giving effect to this Amendment.

(b) Except as specifically amended herein or waived hereby, the Credit Agreement shall continue in full force and effect in accordance with its original terms. Reference to this specific Amendment need not be made in the Credit Agreement, the Notes, or any other instrument or document executed in connection therewith, or in any certificate, letter or communication issued or made pursuant to or

with respect to the Credit Agreement, any reference in any of such items to the Credit Agreement being sufficient to refer to the Credit Agreement as amended hereby.

(c) The Borrowers agree to pay on demand all costs and expenses of or incurred by the Administrative Agent in connection with the negotiation, preparation, execution and delivery of this Amendment and otherwise relating to this credit facility.

(d) This Amendment may be executed in any number of counterparts, and by the different parties on different counterpart signature pages, all of which taken together shall constitute one and the same agreement. Any of the parties hereto may execute this Amendment by signing any such counterpart and each of such counterparts shall for all purposes be deemed to be an original. This Amendment shall be governed by the laws of the State of New York.

[SIGNATURE PAGES TO FOLLOW]

This Fourth Amendment to Amended and Restated Credit Agreement is entered into as of the date and year first above written.

ALLIANCE DATA SYSTEMS CORPORATION

By: /s/ ROBERT P. ARMIAK

Name: Robert P. Armiak

Title: SVP & Treasurer

LOYALTY MANAGEMENT GROUP, CANADA INC.

By: /s/ ROBERT P. ARMIAK

Name: Robert P. Armiak

Title: SVP & Treasurer

Accepted and agreed to as of the date and year last above written.

HARRIS TRUST AND SAVINGS BANK, in its individual capacity as a Bank and as the Administrative Agent

By: /s/ THAD D. RASCHE

Name: Thand D Rasche

Title: Vice President

JPMORGAN CHASE BANK

By: /s/ ALLEN K. KING

Name: Allen K. King

Title: Vice President

BANK ONE, NA

By: /s/ MARK WASDEN

Name: Mark Wasden

Title: Director

UNION BANK OF CALIFORNIA, N.A.

By: /s/ ALBERT W. KELLEY

Name: Albert W. Kelley

Title: Vice President

THE HUNTINGTON NATIONAL BANK

By: /s/ NANCY J. CRAMLICE

Name: Nancy J. Cramlice

Title: Vice President

KZH ING-2 LLC

By: /s/ ANTHONY TARROBINO

Name: Anthony Tarrobino

Title: Authorized Agent

KZH ING-3 LLC

By: /s/ ANTHONY TARROBINO

Name: Anthony Tarrobino

Title: Authorized Agent

PILGRIM AMERICA HIGH INCOME INVESTMENTS, LTD.

By: Pilgrim Investments, Inc., as its Investment Manager

By: /s/ MICHEL PRINCE

Name: Michel Prince, CFA

Title: Vice President

PILGRIM PRIME RATE TRUST

By: Pilgrim Investments, Inc., as its Investment Manager

By: /s/ MICHEL PRINCE

Name: Michel Prince, CFA

Title: Vice President

PILGRIM CLO 1999-1 LTD.

By: Pilgrim Investments, Inc., as its Investment Manager

By: /s/ MICHEL PRINCE

Name: Michel Prince, CFA

Title: Vice President

SUN TRUST BANK

By: /s/ BRIAN K. PETERS

Name: Brian K. Peters

Title: Managing Director

ARCHIMEDES FUNDING II, LTD.

By: ING Capital Advisors LLC, as Collateral Manager

By: /s/ GORDON COOK

Name: Gordon Cook

Title: Senior Vice President & Portfolio Manager

ARCHIMEDES FUNDING III, LTD.

By: ING Capital Advisors LLC, as Collateral Manager

By: /s/ GORDON COOK

Name: Gordon Cook

Title: Senior Vice President & Portfolio Manager

SEQUILS-ING I (HBDGM), LTD.

By: ING Capital Advisors LLC, as Collateral Manager

By: /s/ GORDON COOK

Name: Gordon Cook

Title: Senior Vice President & Portfolio Manager

VAN KAMPEN PRIME RATE INCOME TRUST

By: Van Kampen Investment Advisory Corp.

By: /s/ CHRISTINA JAMIESON

Name: Christina Jamieson

Title: Vice President

FIRST UNION NATIONAL BANK

By: /s/ LAURA B. SMITH

Name: Laura B. Smith

Title: Vice President

GUARANTORS' CONSENT

By their execution of the Credit Agreement, the undersigned have heretofore guaranteed certain Guaranteed Obligations under Article 10 of the Credit Agreement. Each of the undersigned hereby consents to the Amendment to the Credit Agreement as set forth above and confirms that all of each of the undersigned's obligations as a Guarantor remain in full force and effect. The undersigned further agree that the consent of the undersigned to any further amendments to the Credit Agreement shall not be required as a result of this consent having been obtained. The undersigned acknowledge that the Administrative Agent and the Banks are relying on these assurances in entering into the Amendment set forth above.

ALLIANCE DATA SYSTEMS CORPORATION

By: /s/ ROBERT P. ARMIAK

Name: Robert P. Armiak

Title: SVP & Treasurer

ADS ALLIANCE DATA SYSTEMS, INC.

By: /s/ ROBERT P. ARMIAK

Name: Robert P. Armiak

Title: SVP & Treasurer

QuickLinks -- Click here to rapidly navigate through this document

Exhibit 21

List of Subsidiaries
of
Alliance Data Systems

Name of Direct Subsidiary	State & Date of Inc.	Doing Business As	Subsidiaries
ADS Alliance Data Systems, Inc.	Delaware 4/22/83	ADS Alliance Data Systems, Inc.	LoyaltyOne, Inc. (Ohio 12/13/00) **Subsidiaries** • Frequency Marketing, Inc. (Ohio 10/05/81)
World Financial Network National Bank	Federal Charter 5/1/89	World Financial Network National Bank	WFN Credit Company, L.L.C. (Delaware Chartered 5/1/01)
Alliance Data Systems (New Zealand) Limited	New Zealand 11/7/97	Alliance Data Systems (New Zealand) Limited	Financial Automation Limited (New Zealand 10/01/87)
Loyalty Management Group Canada, Inc.	Toronto, Canada amalgamated 07/24/98	Loyalty Management Group Canada, Inc.	LMG Travel Services, Ltd. (Toronto, Canada 02/21/92)
ADS Reinsurance Ltd.	Bermuda 11/26/98	ADS Reinsurance Ltd.	NONE
ADS Commercial Services, Inc.	Delaware 01/18/95	ADS Commercial Services, Inc.	NONE

QuickLinks

List of Subsidiaries of Alliance Data Systems

Exhibit 23

Independent Auditors' Consent

We consent to the incorporation by reference in Registration Statement Nos. 333-68134 and 333-65556 of Alliance Data Systems Corporation on Forms S-8 of our report dated March 25, 2002, appearing in this Annual Report on Form 10-K of Alliance Data Systems Corporation for the year ended December 31, 2001.

/s/ Deloitte & Touche LLP

Dallas, Texas
March 29, 2002