

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36 AS AMENDED

AND IN THE MATTER OF VOYAGER DIGITAL LTD.

APPLICATION OF VOYAGER DIGITAL LTD. UNDER
SECTION 46 OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

MOTION RECORD

(Recognition of Foreign Orders)
(Returnable October 6, 2022)

September 28, 2022

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TO: THE SERVICE LIST

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**NOTICE OF MOTION
(Recognition of Foreign Orders)
(Returnable October 6, 2022)**

VOYAGER DIGITAL LTD. ("VDL"), as the foreign representative (in such capacity, the "**Foreign Representative**") of VDL in respect of the case (the "**Chapter 11 Case**") under Chapter 11 of title 11 of the United States Code (the "**U.S. Bankruptcy Code**") commenced by VDL in the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Bankruptcy Court**") will make a motion to a judge on October 6, 2022, at 10:00 a.m. Toronto time, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by video conference.

THE MOTION IS FOR:

- (a) an order recognizing and enforcing in Canada the following orders (collectively, the "**Additional U.S. Orders**") of the U.S. Bankruptcy Court in the Chapter 11 Case:

- (i) order authorizing the retention and employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, “**Kirkland**”) as attorneys for the Debtors (defined below) and debtors in possession effective as of July 5, 2022, entered on August 4, 2022 (the “**Kirkland Retention Order**”);
 - (ii) order granting the application of Voyager Digital Holdings, Inc. authorizing the employment and retention of Berkely Research Group, LLC (“**BRG**”) as financial advisor effective as of July 5, 2022, entered on August 16, 2022 (the “**BRG Retention Order**”);
 - (iii) order authorizing the employment and retention of Moelis & Company LLC (“**Moelis**”) as investment banker and capital markets advisor to the Debtors, effective as of July 5, 2022, entered on August 16, 2022 (the “**Moelis Retention Order**”); and
 - (iv) order (I) approving the Debtors’ key employee retention plan; and (II) granting related relief, entered on August 25, 2022 (the “**KERP Order**”);
- (b) an order abridging the time for service and filing of this notice of motion and the motion record and dispensing with service thereof on any interested party other than those served within these proceedings; and
- (c) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THIS MOTION ARE:

VDL

- (a) VDL is incorporated under the *Business Corporations Act*, S.B.C. 2002, c. 57;
- (b) VDL's shares have traded on the Toronto Stock Exchange ("TSX") since 2021;
- (c) VDL's operating U.S. subsidiary, Voyager Digital, LLC, and other affiliates (collectively and together with VDL, "**Voyager**") operate a U.S.-based enterprise providing cryptocurrency brokerage, custodial and lending services to U.S.-based customers;

The Chapter 11 Case

- (d) on July 5, 2022, VDL commenced the Chapter 11 Case upon filing a voluntary petition for relief under the U.S. Bankruptcy Code in the U.S. Bankruptcy Court;
- (e) two other entities in the Voyager group of companies, Voyager Digital, LLC and Voyager Digital Holdings, Inc. (collectively with VDL, the "**Debtors**"), also filed voluntary petitions for relief under the U.S. Bankruptcy Code in the U.S. Bankruptcy Court on July 5, 2022—at this time, recognition of these cases has not been sought in Canada;
- (f) contemporaneously with the commencement of the Chapter 11 Case, the Debtors filed motions seeking, among other things, certain orders of the U.S. Bankruptcy Court (the "**First Day Orders**"), including the following orders:

- (i) order (I) authorizing VDL to act as foreign representative; and (II) granting related relief;
- (ii) order (I) directing joint administration of the Chapter 11 cases; and (II) granting related relief;
- (iii) order (I) restating and enforcing the worldwide automatic stay, anti-discrimination provisions, and *ipso facto* protections of the U.S. Bankruptcy Code; (II) approving the form and manner of notice; and (III) granting related relief; and
- (iv) interim order (I) authorizing the Debtors to (A) continue to operate the Debtors' cash and cryptocurrency management system (the "**Cash Management System**"), (B) honor certain prepetition obligations related thereto, (C) maintain existing business forms, and (D) continue to perform intercompany transactions resulting from the Debtors' business relationships with each other ("**Intercompany Transactions**"); (II) granting superpriority administrative expense status to postpetition intercompany balances; and (III) granting related relief;
- (g) the Debtors' motions for, among other things, the First Day Orders were heard on July 8, 2022 (the "**First Day Hearing**");
- (h) following the First Day Hearing, the U.S. Bankruptcy Court granted the First Day Orders, in some cases with some amendments;

- (i) the Debtors' motions for, among other things, certain additional orders of the U.S. Bankruptcy Court (the "**Second Day Orders**") were heard on August 4, 2022 (the "**Second Day Hearing**");
- (j) following the Second Day Hearing, the U.S. Bankruptcy Court granted the Second Day Orders, in some cases with some amendments, including the following orders:
 - (i) second interim order (I) authorizing the Debtors to (A) continue to operate the Cash Management System, (B) honor certain prepetition obligations related thereto, (C) maintain existing business forms, and (D) continue to perform Intercompany Transactions; (II) granting superpriority administrative expense status to postpetition intercompany balances; and (III) granting related relief; and
 - (ii) the Kirkland Retention Order;
- (k) following the Second Day Hearing, several other hearings were held in the Chapter 11 Case, including:
 - (i) a hearing on August 16, 2022, where the U.S. Bankruptcy Court granted the BRG Retention Order and the Moelis Retention Order; and
 - (ii) a hearing on August 24, 2022, where the U.S. Bankruptcy Court granted the KERP Order;
- (l) the Foreign Representative intended on seeking recognition on this motion of the final order of the U.S. Bankruptcy Court (I) authorizing the Debtors to (A) continue

to operate the Cash Management System, (B) honor certain prepetition obligations related thereto, (C) maintain existing business forms, and (D) continue to perform Intercompany Transactions; (II) granting superpriority administrative expense status to postpetition intercompany balances; and (III) granting related relief (the “**Final Cash Management Order**”);

- (m) however, the Debtors’ motion in the U.S. Bankruptcy Court for the Final Cash Management Order has been adjourned to October 18, 2022;

The Canadian Proceedings

The Initial Recognition Hearing

- (n) on July 8, 2022, the Foreign Representative commenced this application (the “**Canadian Proceedings**”) under Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), seeking:

- (i) an initial recognition order (foreign main proceeding), among other things,
 - (i) declaring that VDL is the foreign representative in respect of the Chapter 11 Case, (ii) declaring that the centre of main interest (“**COMI**”) of VDL is the U.S., (iii) recognizing the Chapter 11 Case as a “foreign main proceeding” under Part IV of the CCAA and (iv) ordering mandatory relief set out in section 48(1) of the CCAA; and

- (ii) a supplemental order (foreign main proceeding), among other things,
 - (i) recognizing the First Day Orders, (ii) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as information officer in respect of these

proceedings (in such capacity, the “**Information Officer**”) and (iii) granting a charge for the benefit of VDL’s legal counsel, the Information Officer and the Information Officer’s legal counsel in the amount of \$500,000 (the “**Administration Charge**”);

(o) at a hearing held on July 12, 2022 (the “**Initial Recognition Hearing**”), this Court granted the following orders:

(i) an initial recognition order, among other things (i) recognizing VDL as the Foreign Representative in respect of the Chapter 11 Cases, (ii) recognizing the Chapter 11 Case as a “foreign proceeding” and (iii) ordering mandatory relief set out in section 48(1) of the CCAA—as described further below, the Court neither declared the U.S. as the COMI for VDL nor recognized the Chapter 11 Case as a “foreign main proceeding” at the Initial Recognition Hearing (the “**Initial Recognition Order**”); and

(ii) a supplemental order (foreign main proceeding), among other things, (i) recognizing certain of the First Day Orders, (ii) appointing A&M as Information Officer and (iii) granting the Administration Charge (the “**Supplemental Order**”);

(p) at the Initial Recognition Hearing, Francine De Sousa (“**De Sousa**”), the plaintiff in a proposed class action that desires to represent a putative class of VDL equity holders (the “**Putative Class**”) raised issue with certain relief sought by the Foreign Representative, namely (i) the declaration that VDL’s COMI is the U.S. and (ii) the

recognition of the Chapter 11 Case as a “foreign main proceeding” under Part IV of the CCAA (together, the “**Adjourned Relief**”);

- (q) this Court directed that submissions in support and in opposition to the Adjourned Relief were to be heard on July 19, 2022;
- (r) submissions for and against the Adjourned Relief were heard on July 19, 2022, and on August 4, 2022, the Honourable Justice Kimmel released a decision declaring that VDL’s COMI is the U.S. and recognizing the Chapter 11 Case as a “foreign main proceeding” under Part IV of the CCAA;
- (s) the Initial Recognition Order was amended and restated on August 8, 2022 to reflect the granting of the adjourned relief;

The August Recognition Motion and the De Sousa Motion

- (t) on July 28, 2022, the Foreign Representative scheduled a motion on August 11, 2022 for an order recognizing one of the First Day Orders, which had not yet been granted at the time of the Initial Recognition Hearing, and certain of the Second Day Orders (the “**August Recognition Motion**”);
- (u) the Foreign Representative alerted the Information Officer and De Sousa of the timing of the August Recognition Motion on July 29, 2022 and served its motion record on August 6, 2022;
- (v) by motion served on August 4, 2022 (the “**De Sousa Motion**”), De Sousa sought, among other relief:

- (i) copies of any insurance policies that may be responsive to the claims of the Putative Class;
- (ii) details of the intercorporate funding arrangements between VDL and its relevant subsidiaries, including any debts owed to VDL and the dates and amounts of transfers from VDL to its subsidiaries since May 1, 2022 (together with item (i) above, the “**Interim Relief**”);
- (iii) appointing representative counsel for all securities claimants and current shareholders of VDL impacted in the Canadian Proceeding and the Chapter 11 Case to be funded by a charge on VDL’s estate; and
- (iv) allowing for the creation of an equity committee in the Canadian Proceeding from which such representative counsel shall take instructions (together with item (iii) above, the “**Further Relief**”);
- (w) the Interim Relief portion of the De Sousa Motion was scheduled to be heard on an urgent basis at a judicial appointment on August 8, 2022 and the Further Relief of the De Sousa Motion was scheduled to be heard on August 11, 2022, concurrently with the August Recognition Motion;
- (x) at the judicial appointment on August 8, 2022, the Honourable Justice Cavanaugh ruled that he was not satisfied that granting the Interim Relief on an urgent basis with the material available to His Honour was proper and declined to do so;

- (y) as a result of discussions among the Foreign Representative, the Information Officer and De Sousa, De Sousa did not seek the Interim Relief at the hearing on August 11, 2022;
- (z) at a hearing held on August 11, 2022, Justice Cavanagh granted the August Recognition Motion and dismissed De Sousa's motion for the Further Relief without prejudice to her right to seek such relief from the U.S. Bankruptcy Court in the Chapter 11 Case;
- (aa) De Sousa has since engaged U.S. counsel;

Recognition of Additional U.S. Orders

- (bb) recognition of the Additional U.S. Orders will facilitate this cross-border restructuring;
- (cc) the Additional U.S. Orders are summarized below;

The Kirkland Retention Order

- (dd) the Kirkland Retention Order, which was entered by the U.S. Bankruptcy Court on August 4, 2022, authorizes the retention and employment of Kirkland as the Debtors' U.S. insolvency counsel in accordance with the terms and conditions set forth in the engagement letter between the Debtors and Kirkland dated as of June 17, 2022, a copy of which is attached as Exhibit 1 to the Kirkland Retention Order;

The BRG Retention Order

- (a) the BRG Retention Order, which was entered by the U.S. Bankruptcy Court on August 16, 2022, authorizes the employment and retention of BRG to provide financial advisory and consulting services to Voyager Digital, LLC in accordance with the terms and conditions set forth in the engagement letter dated as of June 30, 2022, a copy of which is attached as Exhibit 1 to the BRG Retention Order;
- (b) BRG's mandate includes preparing various financial analyses to support restructuring alternatives including liquidity forecasts, expense levels and others as necessary, and providing advice to management on cash conservation measures and liquidity forecasting after analyzing and stress testing weekly cash flows under various scenarios;

The Moelis Retention Order

- (a) the Moelis Retention Order, which was entered by the U.S. Bankruptcy Court on August 16, 2022, authorizes the employment and retention of Moelis to serve as the Debtors' investment banker, capital markets advisor and financial advisor effective as of July 5, 2022 in accordance with the terms and conditions set forth in the engagement letter between Moelis, the Debtors and certain of the Debtors' affiliates dated as of June 20, 2022, a copy of which is attached as Exhibit 1 to the Moelis Retention Order;

- (b) Moelis' mandate includes, among other things, assisting the Debtors and certain of their affiliates with soliciting, reviewing, analyzing and negotiating a restructuring of the Debtors' affairs or a transaction involving the Debtors' business;

The KERP Order

- (c) the KERP Order, which was entered by the U.S. Bankruptcy Court on August 25, 2022, approves and authorizes the Debtors' key employee retention plan, authorizes the Debtors to make payments to certain non-insider employees under the KERP and grants certain related relief;
- (d) as described above, recognition of the Additional U.S. Orders will facilitate this cross-border restructuring;
- (e) for certainty, none of the Additional U.S. Orders for which recognition is being sought seek approval of a sale of the Debtors' assets or undertakings or confirmation of any plan of reorganization;

Other Grounds

- (f) the provisions of the CCAA, including Part IV thereof;
- (g) the provisions of the *Rules of Procedure*, R.R.O. 1990, Reg. 194, including rules 1.04, 1.05, 2.03 and 3.02 and Rules 16 and 37 thereof; and
- (h) such further and other grounds as the lawyers may advise and this Honourable Court may permit.

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

- (i) the motion record dated September 28, 2022, including the second affidavit of Raajan Aery sworn September 28, 2022, filed;
- (j) the second report of the Information Officer, to be filed; and
- (k) such further and other evidence as the lawyers may advise and this Honourable Court may permit.

September 28, 2022

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APPLICATION OF VOYAGER DIGITAL LTD. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-22-00683820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**Proceeding commenced at
Toronto**

**NOTICE OF MOTION
(Recognition of Foreign Orders)**

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**ONTARIO
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THE HONOURABLE) THURSDAY, THE 6TH
JUSTICE KIMMEL) DAY OF OCTOBER, 2022

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**ORDER
(Recognition of Foreign Orders)**

THIS MOTION, made by Voyager Digital Ltd. (“**VDL**”) in its capacity as the foreign representative (in such capacity, the “**Foreign Representative**”) of VDL in respect of the proceedings commenced on July 5, 2022 (the “**Foreign Proceeding**”), in the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Bankruptcy Court**”) for an Order pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the “**CCAA**”), substantially in the form enclosed in the Motion Record, was heard this day by video conference.

ON READING the Notice of Motion, the affidavit of Raajan Aery sworn September 28, 2022 (the “**Aery Affidavit**”) and the second report of Alvarez & Marsal Canada Inc., in its capacity as court-appointed information officer in respect of these proceedings (in such capacity,

the “**Information Officer**”) dated [●], 2022, each filed, and upon hearing the submissions of counsel for the Foreign Representative, counsel for the Information Officer and such other counsel that appeared on the motion, no one else appearing although duly served as appears from the affidavit of service of Daniel Richer sworn September [●], 2022, filed:

SERVICE AND DEFINITIONS

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that the capitalized terms used herein and not otherwise defined have the meaning given to them in the Aery Affidavit.

RECOGNITION OF FOREIGN ORDERS

3. THIS COURT ORDERS that the following orders of the U.S. Bankruptcy Court made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA:

- (a) order authorizing the retention and employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP as attorneys for the debtors and debtors in possession effective as of July 5, 2022, a copy of which is attached hereto as **Schedule “A”**;
- (b) order granting the application of Voyager Digital Holdings, Inc. authorizing the employment and retention of Berkely Research Group, LLC as financial advisor effective as of July 5, 2022, a copy of which is attached hereto as **Schedule “B”**;

- (c) order authorizing the employment and retention of Moelis & Company LLC as investment banker and capital markets advisor to the debtors, effective as of the petition date, a copy of which is attached hereto as **Schedule “C”**; and
- (d) order (I) approving the debtors’ key employee retention plan; and (II) granting related relief, a copy of which is attached hereto as **Schedule “D”**.

GENERAL

4. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America to give effect to this Order and to assist the Foreign Representative, the Information Officer, and their respective counsel and agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Foreign Representative and the Information Officer, and their respective counsel and agents, in carrying out the terms of this Order.

5. THIS COURT ORDERS that the Foreign Representative and the Information Officer shall be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

6. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order or seek relief on not less than seven (7) days’ notice to the Foreign Representative, the Information Officer, and their respective counsel, and to any other party or

parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

7. THIS COURT ORDERS AND DECLARES that this Order shall be effective as of 12:01 AM on the date of this Order.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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**RECOGNITION ORDER
(Recognition of Foreign Orders)**

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**AFFIDAVIT OF RAAJAN AERY
(Sworn September 28, 2022)**

I, Raajan Aery, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am an associate lawyer at the law firm of Fasken Martineau DuMoulin LLP, Canadian insolvency counsel to Voyager Digital Ltd. (“VDL”). As such, I have personal knowledge of the matters described in this affidavit, except where such matters are based upon information and belief, in which case I have stated the source of that information and believe it to be true.

2. I swear this affidavit in support of the motion of VDL, in its capacity as foreign representative (the “**Foreign Representative**”) of VDL in respect of the case (the “**Chapter 11 Case**”) under Chapter 11 of title 11 of the United States Code (the “**U.S. Bankruptcy Code**”) commenced by VDL in the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Bankruptcy Court**”), for relief pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”).

3. In this affidavit, I repeat and rely upon evidence provided in the affidavit of Stephen Ehrlich sworn July 10, 2022 and the second affidavit of Stephen Ehrlich sworn August 6, 2022, which are both filed with the Court in this proceeding.

4. I am advised by Nicholas Adzima of Kirkland & Ellis LLP, U.S. insolvency counsel to VDL (“**Mr. Adzima**”), that the U.S. Bankruptcy Court:

- (a) entered an order on August 4, 2022 authorizing the retention and employment of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, “**Kirkland**”) as attorneys for the Debtors (defined below) and debtors in possession effective as of July 5, 2022 (the “**Kirkland Retention Order**”)—a copy of the Kirkland Retention Order is attached as **Exhibit “A”**;
- (b) entered an order on August 16, 2022 granting the application of Voyager Digital Holdings, Inc. authorizing the employment and retention of Berkely Research Group, LLC (“**BRG**”) as financial advisor effective as of July 5, 2022 (the “**BRG Retention Order**”)—a copy of the BRG Retention Order is attached as **Exhibit “B”**;
- (c) entered an order on August 16, 2022 authorizing the employment and retention of Moelis & Company LLC (“**Moelis**”) as investment banker and capital markets advisor to the Debtors, effective as of July 5, 2022 (the “**Moelis Retention Order**”)—a copy of the Moelis Retention Order is attached as **Exhibit “C”**; and

- (d) entered an order on August 25, 2022 (I) approving the Debtors’ key employee retention plan; and (II) granting related relief (the “**KERP Order**”)—a copy of the KERP Order is attached as **Exhibit “D”**.

5. The Foreign Representative seeks, among other things, an order recognizing and enforcing in Canada the Kirkland Retention Order, the BRG Retention Order, the Moelis Retention Order, and the KERP Order (collectively, the “**Additional U.S. Orders**”).

VDL

6. VDL is incorporated under the *Business Corporations Act*, S.B.C. 2002, c. 57. Its shares have traded on the Toronto Stock Exchange (“**TSX**”) since 2021.

7. VDL’s operating U.S. subsidiary, Voyager Digital, LLC, and other affiliates (collectively and together with VDL, “**Voyager**”) operate a U.S.-based enterprise providing cryptocurrency brokerage, custodial and lending services to U.S.-based customers.

The Chapter 11 Case

8. On July 5, 2022, VDL commenced the Chapter 11 Case upon filing a voluntary petition for relief under the U.S. Bankruptcy Code in the U.S. Bankruptcy Court.

9. Two other entities in the Voyager group of companies, Voyager Digital, LLC and Voyager Digital Holdings, Inc. (collectively with VDL, the “**Debtors**”), also filed voluntary petitions for relief under the U.S. Bankruptcy Code in the U.S. Bankruptcy Court on July 5, 2022— at this time, recognition of these cases has not been sought in Canada.

10. Contemporaneously with the commencement of the Chapter 11 Case, the Debtors filed motions seeking, among other things, certain orders of the U.S. Bankruptcy Court (the “**First Day Orders**”), including the following orders:

- (a) order (I) authorizing VDL to act as foreign representative; and (II) granting related relief;
- (b) order (I) directing joint administration of the Chapter 11 cases; and (II) granting related relief;
- (c) order (I) restating and enforcing the worldwide automatic stay, anti-discrimination provisions, and *ipso facto* protections of the U.S. Bankruptcy Code; (II) approving the form and manner of notice; and (III) granting related relief; and
- (d) interim order (I) authorizing the Debtors to (A) continue to operate the Debtors’ cash and cryptocurrency management system (the “**Cash Management System**”), (B) honor certain prepetition obligations related thereto, (C) maintain existing business forms, and (D) continue to perform intercompany transactions resulting from the Debtors’ business relationships with each other (“**Intercompany Transactions**”); (II) granting superpriority administrative expense status to postpetition intercompany balances; and (III) granting related relief.

11. The Debtors’ motions for, among other things, the First Day Orders were heard on July 8, 2022 (the “**First Day Hearing**”). Following the First Day Hearing, the U.S. Bankruptcy Court granted the First Day Orders, in some cases with some amendments.

12. The Debtors' motions for, among other things, certain additional orders of the U.S. Bankruptcy Court (the "**Second Day Orders**") were heard on August 4, 2022 (the "**Second Day Hearing**"). Following the Second Day Hearing, the U.S. Bankruptcy Court granted the Second Day Orders, in some cases with some amendments, including the following orders:

- (a) second interim order (I) authorizing the Debtors to (A) continue to operate the Cash Management System, (B) honor certain prepetition obligations related thereto, (C) maintain existing business forms, and (D) continue to perform Intercompany Transactions (defined below); (II) granting superpriority administrative expense status to postpetition intercompany balances; and (III) granting related relief; and
- (b) the Kirkland Retention Order.

13. Following the Second Day Hearing, several other hearings were held in the Chapter 11 Case, including:

- (a) a hearing on August 16, 2022, where the U.S. Bankruptcy Court granted the BRG Retention Order and the Moelis Retention Order; and
- (b) a hearing on August 24, 2022, where the U.S. Bankruptcy Court granted the KERP Order.

14. The Foreign Representative intended on seeking recognition on this motion of the final order of the U.S. Bankruptcy Court (I) authorizing the Debtors to (A) continue to operate the Cash Management System, (B) honor certain prepetition obligations related thereto, (C) maintain existing business forms, and (D) continue to perform Intercompany Transactions; (II) granting

superpriority administrative expense status to postpetition intercompany balances; and (III) granting related relief (the “**Final Cash Management Order**”). However, the Debtors’ motion in the Chapter 11 Case for the Final Cash Management Order has been adjourned to October 18, 2022.

The Canadian Proceedings

The Initial Recognition Hearing

15. On July 8, 2022, the Foreign Representative commenced an application (the “**Canadian Proceedings**”) under Part IV of the CCAA, seeking:

- (a) an initial recognition order (foreign main proceeding), among other things,
 - (i) declaring that VDL is the foreign representative in respect of the Chapter 11 Case, (ii) declaring that the centre of main interest (“**COMI**”) of VDL is the U.S., (iii) recognizing the Chapter 11 Case as a “foreign main proceeding” under Part IV of the CCAA and (iv) ordering mandatory relief set out in section 48(1) of the CCAA; and
- (b) a supplemental order (foreign main proceeding), among other things,
 - (i) recognizing the First Day Orders, (ii) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as information officer in respect of these proceedings (in such capacity, the “**Information Officer**”) and (iii) granting a charge for the benefit of VDL’s legal counsel, the Information Officer and the Information Officer’s legal counsel in the amount of \$500,000 (the “**Administration Charge**”).

16. At a hearing held on July 12, 2022 (the “**Initial Recognition Hearing**”), this Court granted the following orders:

- (i) an initial recognition order, among other things (i) recognizing VDL as the Foreign Representative in respect of the Chapter 11 Cases, (ii) recognizing the Chapter 11 Case as a “foreign proceeding” and (iii) ordering mandatory relief set out in section 48(1) of the CCAA—as described further below, the Court neither declared the U.S. as the COMI for VDL nor recognized the Chapter 11 Case as a “foreign main proceeding” at the Initial Recognition Hearing (the “**Initial Recognition Order**”); and
- (ii) a supplemental order (foreign main proceeding), among other things, (i) recognizing certain of the First Day Orders, (ii) appointing A&M as Information Officer and (iii) granting the Administration Charge (the “**Supplemental Order**”);

17. At the Initial Recognition Hearing, Francine De Sousa (“**De Sousa**”), the plaintiff in a proposed class action that desires to represent a putative class of VDL equity holders (the “**Putative Class**”) raised issue with certain relief sought by the Foreign Representative, namely (i) the declaration that VDL’s COMI is the U.S. and (ii) the recognition of the Chapter 11 Case as a “foreign main proceeding” under Part IV of the CCAA (together, the “**Adjourned Relief**”).

18. This Court directed that submissions in support and in opposition to the Adjourned Relief were to be heard on July 19, 2022.

19. Submissions for and against the Adjourned Relief were heard on July 19, 2022, and on August 4, 2022, the Honourable Justice Kimmel released a decision declaring that VDL's COMI is the U.S. and recognizing the Chapter 11 Case as a "foreign main proceeding" under Part IV of the CCAA.

20. The Initial Recognition Order was amended and restated on August 8, 2022 to reflect the granting of the adjourned relief.

The August Recognition Motion and the De Sousa Motion

21. On July 28, 2022, the Foreign Representative scheduled a motion on August 11, 2022 for an order recognizing one of the First Day Orders, which had not yet been granted at the time of the Initial Recognition Hearing, and certain of the Second Day Orders (the "**August Recognition Motion**").

22. The Foreign Representative alerted the Information Officer and De Sousa of the timing of the August Recognition Motion on July 29, 2022 and served its motion record on August 6, 2022.

23. By motion served on August 4, 2022 (the "**De Sousa Motion**"), De Sousa sought, among other relief:

- (a) copies of any insurance policies that may be responsive to the claims of the Putative Class;
- (b) details of the intercorporate funding arrangements between VDL and its relevant subsidiaries, including any debts owed to VDL and the dates and amounts of

transfers from VDL to its subsidiaries since May 1, 2022 (together with item (a) above, the “**Interim Relief**”);

- (c) appointing representative counsel for all securities claimants and current shareholders of VDL impacted in the Canadian Proceeding and the Chapter 11 Case to be funded by a charge on VDL’s estate; and
- (d) allowing for the creation of an equity committee in the Canadian Proceeding from which such representative counsel shall take instructions (together with item (d) above, the “**Further Relief**”).

24. The Interim Relief portion of the De Sousa Motion was scheduled to be heard on an urgent basis at a judicial appointment on August 8, 2022 and the Further Relief of the De Sousa Motion was scheduled to be heard on August 11, 2022, concurrently with the August Recognition Motion.

25. At the judicial appointment on August 8, 2022, the Honourable Justice Cavanaugh ruled that he was not satisfied that granting the Interim Relief on an urgent basis with the material available to His Honour was proper and declined to do so.

26. As a result of discussions among the Foreign Representative, the Information Officer and De Sousa, De Sousa did not seek the Interim Relief at the hearing on August 11, 2022.

27. At a hearing held on August 11, 2022, Justice Cavanagh granted the August Recognition Motion and dismissed De Sousa’s motion for the Further Relief without prejudice to her right to seek such relief from the U.S. Bankruptcy Court in the Chapter 11 Case.

28. Together with other holders of equity interests in VDL, De Sousa has since engaged Kilpatrick Townsend & Stockton LLP (“**Kilpatrick Townsend**”) as U.S. counsel. A copy of Kilpatrick Townsend’s verified statement pursuant to bankruptcy rule 2019, which Mr. Adzima has informed me was entered by the U.S Bankruptcy Court on September 19, 2022, is attached as **Exhibit “E”**.

Recognition of Additional U.S. Orders

29. Recognition of the Additional U.S. Orders will facilitate this cross-border restructuring. The Additional U.S. Orders are summarized below.

The Kirkland Retention Order

30. The Kirkland Retention Order, which was entered by the U.S. Bankruptcy Court on August 4, 2022, authorizes the retention and employment of Kirkland as the Debtors’ U.S. insolvency counsel in accordance with the terms and conditions set forth in the engagement letter between the Debtors and Kirkland dated as of June 17, 2022, a copy of which is attached as Exhibit 1 to the Kirkland Retention Order.

The BRG Retention Order

31. The BRG Retention Order, which was entered by the U.S. Bankruptcy Court on August 16, 2022, authorizes the employment and retention of BRG to provide financial advisory and consulting services to Voyager Digital, LLC in accordance with the terms and conditions set forth in the engagement letter dated as of June 30, 2022, a copy of which is attached as Exhibit 1 to the BRG Retention Order.

32. I am informed by Mr. Adzima that BRG's mandate includes, among other things, preparing various financial analyses to support restructuring alternatives including liquidity forecasts, expense levels and others as necessary, and providing advice to management on cash conservation measures and liquidity forecasting after analyzing and stress testing weekly cash flows under various scenarios.

The Moelis Retention Order

33. The Moelis Retention Order, which was entered by the U.S. Bankruptcy Court on August 16, 2022, authorizes the employment and retention of Moelis to serve as the Debtors' investment banker, capital markets advisor and financial advisor effective as of July 5, 2022 in accordance with the terms and conditions set forth in the engagement letter between Moelis, the Debtors and certain of the Debtors' affiliates dated as of June 20, 2022 (the "**Moelis Engagement Letter**"), a copy of which is attached as Exhibit 1 to the Moelis Retention Order.

34. As set out in the Moelis Engagement Letter, Moelis' mandate includes, among other things, assisting the Debtors and certain of their affiliates with soliciting, reviewing, analyzing and negotiating a restructuring of the Debtors' affairs or a transaction involving the Debtors' business.

The KERP Order

35. The KERP Order, which was entered by the U.S. Bankruptcy Court on August 25, 2022, approves and authorizes the Debtors' key employee retention plan, authorizes the Debtors to make payments to certain non-insider employees under the KERP and grants certain related relief.

36. As described above, recognition of the Additional U.S. Orders will facilitate VDL's cross-border restructuring.

37. For certainty, none of the Additional U.S. Orders for which recognition is being sought seek approval of a sale of the Debtors' assets or undertakings or confirmation of any plan of reorganization.

SWORN BY RAAJAN AERY of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on September 28, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Daniel Richer

6A252F5966B84F8...

DANIEL RICHER

Commissioner for Taking Affidavits

DocuSigned by:

Raajan Aery

2A8F12D4C051474...

RAAJAN AERY

This is Exhibit “A” referred to in the Affidavit of Raajan Aery sworn by Raajan Aery at the City of Toronto, in the Province of Ontario, before me on September 28, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

6A252F5966B84F8...

Commissioner for Taking Affidavits (or as may be)

DANIEL RICHER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:)	Chapter 11
)	
VOYAGER DIGITAL HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 22-10943 (MEW)
)	
Debtors.)	(Jointly Administered)
_____)	

**ORDER AUTHORIZING THE RETENTION
AND EMPLOYMENT OF KIRKLAND & ELLIS LLP AND
KIRKLAND & ELLIS INTERNATIONAL LLP AS ATTORNEYS FOR THE
DEBTORS AND DEBTORS IN POSSESSION EFFECTIVE AS OF JULY 5, 2022**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of an order (the “Order”) authorizing the Debtors to retain and employ Kirkland & Ellis LLP and Kirkland & Ellis International LLP (collectively, “Kirkland”) as their attorneys effective as of the Petition Date, pursuant to sections 327(a) and 330 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”); and the Court having reviewed the Application, the Declaration of Joshua A. Sussberg, the president of Joshua A. Sussberg, P.C., a partner of Kirkland & Ellis LLP, and a partner of Kirkland & Ellis International LLP (the “Sussberg Declaration”), and the declaration of Stephen Ehrlich, the Chief Executive Officer of Voyager Digital Holdings, Inc. (the “Ehrlich Declaration”); and the Court having found that the Court has jurisdiction over this

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Voyager Digital Holdings, Inc. (7687); Voyager Digital, Ltd. (7224); and Voyager Digital, LLC (8013). The location of the Debtors’ principal place of business is 33 Irving Place, Suite 3060, New York, NY 10003.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Application.

matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that the Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found based on the representations made in the Application and in the Sussberg Declaration that (a) Kirkland does not hold or represent an interest adverse to the Debtors' estates and (b) Kirkland is a "disinterested person" as defined in section 101(14) of the Bankruptcy Code and as required by section 327(a) of the Bankruptcy Code; and the Court having found that the relief requested in the Application is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and the Court having found that the Debtors provided adequate and appropriate notice of the Application under the circumstances and that no other or further notice is required; and the Court having reviewed the Application and having heard statements in support of the Application at a hearing held before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted to the extent set forth herein.
2. The Debtors are authorized to retain and employ Kirkland as their attorneys effective as of the Petition Date in accordance with the terms and conditions set forth in the Application and in the Engagement Letter attached hereto as **Exhibit 1**.
3. Kirkland is authorized to provide the Debtors with the professional services as described in the Application and the Engagement Letter. Specifically, but without limitation, Kirkland will render the following legal services:

- a. advising the Debtors with respect to their powers and duties as debtors in possession in the continued management and operation of their businesses and properties;
- b. advising and consulting on their conduct during these chapter 11 cases, including all of the legal and administrative requirements of operating in chapter 11;
- c. attending meetings and negotiating with representatives of creditors and other parties in interest;
- d. taking all necessary actions to protect and preserve the Debtors' estates, including prosecuting actions on the Debtors' behalf, defending any action commenced against the Debtors, and representing the Debtors in negotiations concerning litigation in which the Debtors are involved, including objections to claims filed against the Debtors' estates;
- e. preparing pleadings in connection with these chapter 11 cases, including motions, applications, answers, orders, reports, and papers necessary or otherwise beneficial to the administration of the Debtors' estates;
- f. representing the Debtors in connection with obtaining authority to continue using cash collateral and postpetition financing;
- g. advising the Debtors in connection with any potential sale of assets;
- h. appearing before the Court and any appellate courts to represent the interests of the Debtors' estates;
- i. advising the Debtors regarding tax matters;
- j. taking any necessary action on behalf of the Debtors to negotiate, prepare, and obtain approval of a disclosure statement and confirmation of a chapter 11 plan and all documents related thereto; and
- k. performing all other necessary legal services for the Debtors in connection with the prosecution of these chapter 11 cases, including: (i) analyzing the Debtors' leases and contracts and the assumption and assignment or rejection thereof; (ii) analyzing the validity of liens against the Debtors' assets; and (iii) advising the Debtors on corporate and litigation matters.

4. Kirkland shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court.

5. Notwithstanding anything in the Engagement Letter to the contrary, Kirkland shall apply any remaining amounts of its prepetition advance payment retainer as a credit toward postpetition fees and expenses, after such postpetition fees and expenses are approved pursuant to an order of the Court awarding fees and expenses to Kirkland. Kirkland is authorized without further order of the Court to reserve and apply amounts from the prepetition advance payment retainer that would otherwise be applied toward payment of postpetition fees and expenses as are necessary and appropriate to compensate and reimburse Kirkland for fees or expenses incurred on or prior to the Petition Date consistent with its ordinary course billing practices.

6. Notwithstanding anything to the contrary in the Application, the Engagement Letter, or the Declarations attached to the Application, the reimbursement provisions allowing the reimbursement of fees and expenses incurred in connection with participating in, preparing for, or responding to any action, claim, suit, or proceeding brought by or against any party that relates to the legal services provided under the Engagement Letter and fees for defending any objection to Kirkland's fee applications under the Bankruptcy Code are not approved pending further order of the Court.

7. Kirkland shall not charge a markup to the Debtors with respect to fees billed by contract attorneys who are hired by Kirkland to provide services to the Debtors and shall ensure that any such contract attorneys are subject to conflict checks and disclosures in accordance with the requirements of the Bankruptcy Code and Bankruptcy Rules.

8. The last three sentences of the thirteenth paragraph of the Engagement Letter (titled "File Retention") concerning issues related to attorney-client privilege and the last sentence of the twenty-seventh paragraph of the Engagement Letter (titled "Reimbursement of Fees and Expenses") concerning waivers of objections related to fees are stricken.

9. Kirkland shall provide ten business-days' notice to the Debtors, the U.S. Trustee, and any official committee before any increases in the rates set forth in the Application or the Engagement Letter are implemented and shall file such notice with the Court. The U.S. Trustee retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

10. Kirkland shall not withdraw as Debtors' counsel before the effective date of any chapter 11 plan confirmed in these chapter 11 cases without prior approval of the Court in accordance with Local Rule 2090-1(e).

11. The Debtors and Kirkland are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

12. Notice of the Application as provided therein is deemed to be good and sufficient notice of such Application, and the requirements of the Local Rules are satisfied by the contents of the Application.

13. To the extent the Application, the Sussberg Declaration, the Ehrlich Declaration, or the Engagement Letter is inconsistent with this Order, the terms of this Order shall govern.

14. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

15. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

New York, New York
Dated: August 4, 2022

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Engagement Letter

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Joshua A. Sussberg, P.C.
To Call Writer Directly:
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June 17, 2022

David Brosgol
Voyager Digital Holdings, Inc.
33 Irving Place, Suite 3060
New York, NY 10003

Re: Retention to Provide Legal Services

Dear Mr. Brosgol:

We are very pleased that you have asked us to represent Voyager Digital Holdings, Inc. and only those affiliates and wholly or partially owned subsidiaries listed in an addendum or supplement to this letter (collectively, “Client”) in connection with a potential restructuring. Please note, the Firm’s representation is only of Client; the Firm does not and will not represent any direct or indirect shareholder, director, officer, partner, employee, affiliate, or joint venturer of Client or of any other entity.

General Terms. This retention letter (this “Agreement”) sets forth the terms of Client’s retention of Kirkland & Ellis LLP (and its affiliated entity Kirkland & Ellis International LLP (collectively, the “Firm”)) to provide legal services and constitutes an agreement between the Firm and Client (the “Parties”). This Agreement (notwithstanding any guidelines for outside counsel that Client may provide to the Firm) sets forth the Parties’ entire agreement for rendering professional services for the current matter, as well as for all other existing or future matters (collectively, the “Engagement”), except where the Parties otherwise agree in writing.

Fees. The Firm will bill Client for fees incurred at its regular hourly rates and in quarterly increments of an hour (or in smaller time increments as otherwise required by a court). The Firm reserves the right to adjust the Firm’s billing rates from time to time in the ordinary course of the Firm’s representation of Client.

Although the Firm will attempt to estimate fees to assist Client in Client’s planning if requested, such estimates are subject to change and are not binding unless otherwise expressly and unequivocally stated in writing.

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June 17, 2022

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Expenses. Expenses related to providing services shall be included in the Firm's statements as disbursements advanced by the Firm on Client's behalf. Such expenses include photocopying, printing, scanning, witness fees, travel expenses, filing and recording fees, certain secretarial overtime, and other overtime expenses, postage, express mail, and messenger charges, deposition costs, computerized legal research charges, and other computer services, and miscellaneous other charges. Client shall pay directly (and is solely responsible for) certain larger costs, such as consultant or expert witness fees and expenses, and outside suppliers' or contractors' charges, unless otherwise agreed by the Parties. By executing this Agreement below, Client agrees to pay for all charges in accordance with the Firm's schedule of charges, a copy of which is attached hereto at Schedule 1, as revised from time to time.

Billing Procedures. The Firm's statements of fees and expenses are typically delivered monthly, but the Firm reserves the right to alter the timing of delivering its statements depending on circumstances. Client may have the statement in any reasonable format it chooses, but the Firm will select an initial format for the statement unless Client otherwise requests in writing. Depending on the circumstances, however, estimated or summary statements may be provided, with time and expense details to follow thereafter.

Retainer. Client agrees to provide to the Firm an "advance payment retainer," as defined in Rule 1.15(c) of the Illinois Rules of Professional Conduct, *Dowling v. Chicago Options Assoc., Inc.*, 875 N.E.2d 1012, 1018 (Ill. 2007), and *In re Caesars Entm't Operating Co., Inc.*, No. 15-01145 (ABG) (Bankr. N.D. Ill. May 28, 2015) (and cases cited therein), in the amount of \$1,000,000. In addition, Client agrees to provide one or more additional advance payment retainers upon request by the Firm so that the amount of any advance payment retainers remains at or above the Firm's estimated fees and expenses. The Firm may apply the advance payment retainers to any outstanding fees as services are rendered and to expenses as they are incurred. Client understands and acknowledges that any advance payment retainers are earned by the Firm upon receipt, any advance payment retainers become the property of the Firm upon receipt, Client no longer has a property interest in any advance payment retainers upon the Firm's receipt, any advance payment retainers will be placed in the Firm's general account and will not be held in a client trust account, and Client will not earn any interest on any advance payment retainers; provided, however, that solely to the extent required under applicable law, at the conclusion of the Engagement, if the amount of any advance payment retainers held by the Firm is in excess of the amount of the Firm's outstanding and estimated fees, expenses, and costs, the Firm will pay to Client the amount by which any advance payment retainers exceed such fees, expenses, and costs. Client further understands and acknowledges that the use of advance payment retainers is an integral condition of the Engagement, and is necessary to ensure that: Client continues to have access to the Firm's services; the Firm is compensated for its representation of Client; the Firm is not a pre-petition creditor in the event of a Restructuring Case; and that in light of the foregoing, the provision of the advance payment retainers is in Client's best interests. The fact that Client

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has provided the Firm with an advance payment retainer does not affect Client's right to terminate the client-lawyer relationship.

Please be advised that there is another type of retainer known as a "security retainer," as defined in *Dowling v. Chicago Options Assoc.*, 875 N.E.2d at 1018, and *In re Caesars Entm't Operating Co., Inc.*, No. 15-01145 (ABG) (Bankr. N.D. Ill. May 28, 2015) (and cases cited therein). A security retainer remains the property of the client until the lawyer applies it to charges for services that are actually rendered and expenses that are incurred. Any unearned funds are then returned to the client. In other circumstances not present here, the Firm would consider a security retainer and Client's funds would be held in the Firm's segregated client trust account until applied to pay fees and expenses. Funds in a security retainer, however, can be subject to claims of Client's creditors and, if taken by creditors, may leave Client unable to pay for ongoing legal services, which may result in the Firm being unable to continue the Engagement. Moreover, a security retainer creates clawback risks for the Firm in the event of an insolvency proceeding. The choice of the type of retainer to be used is Client's choice alone, but for the Engagement and for the reasons set forth above, the Firm is unwilling to represent Client in the Engagement without using the advance payment retainer.

Termination. The Engagement may be terminated by either Party at any time by written notice by or to Client. The Engagement will end at the earliest of (a) Client's termination of the Engagement, (b) the Firm's withdrawal, and (c) the substantial completion of the Firm's substantive work. If permission for withdrawal is required by a court, the Firm shall apply promptly for such permission, and termination shall coincide with the court order for withdrawal. If this Agreement or the Firm's services are terminated for any reason, such termination shall be effective only to terminate the Firm's services prospectively and all the other terms of this Agreement shall survive any such termination.

Upon cessation of the Firm's active involvement in a particular matter (even if the Firm continues active involvement in other matters on Client's behalf), the Firm will have no further duty to inform Client of future developments or changes in law as may be relevant to such matter. Further, unless the Parties mutually agree in writing to the contrary, the Firm will have no obligation to monitor renewal or notice dates or similar deadlines that may arise from the matters for which the Firm had been retained.

Cell Phone and E-Mail Communication. The Firm hereby informs Client and Client hereby acknowledges that the Firm's attorneys sometimes communicate with their clients and their clients' professionals and agents by cell telephone, that such communications are capable of being intercepted by others and therefore may be deemed no longer protected by the attorney-client privilege, and that Client must inform the Firm if Client does not wish the Firm to discuss privileged matters on cell telephones with Client or Client's professionals or agents.

KIRKLAND & ELLIS LLP

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Page 4

The Firm hereby informs Client and Client hereby acknowledges that the Firm's attorneys sometimes communicate with their clients and their clients' professionals and agents by unencrypted e-mail, that such communications are capable of being intercepted by others and therefore may be deemed no longer protected by the attorney-client privilege, and that Client must inform the Firm if Client wishes to institute a system to encode all e-mail between the Firm and Client or Client's professionals or agents.

File Retention. All records and files will be retained and disposed of in compliance with the Firm's policy in effect from time to time. Subject to future changes, it is the Firm's current policy generally not to retain records relating to a matter for more than five years. Upon Client's prior written request, the Firm will return client records that are Client's property to Client prior to their destruction. Although we will return your records (i.e., your client file) to you at any time upon your written request, you agree that your client file will not include our Firm's internal files including administrative materials, internal communications, and drafts. It is not administratively feasible for the Firm to advise Client of the closing of a matter or the disposal of records. The Firm recommends, therefore, that Client maintain Client's own files for reference or submit a written request for Client's client files promptly upon conclusion of a matter. Notwithstanding anything to the contrary herein, Client acknowledges and agrees that any applicable privilege of Client (including any attorney-client and work product privilege or any duty of confidentiality) (collectively, the "Privileges") belongs to Client alone and not to any successor entity (including without limitation the Client after a change in control or other similar restructuring or non-restructuring transaction (including without limitation a reorganized Client after the effective date of a plan of reorganization), whether through merger, asset or equity sale, business combination, or otherwise, irrespective of whether such transaction occurs in a Restructuring Case or on an out-of-court basis (in each case, a "Transaction")). Client hereby waives any right, title, and interest of such successor entity to all information, data, documents, or communications in any format covered by the Privileges that is in the possession of the Firm ("Firm Materials"), to the extent that such successor entity had any right, title, and interest to such Firm Materials. For the avoidance of doubt, Client agrees and acknowledges that after a Transaction, such successor entity shall have no right to claim or waive the Privileges or request the return of any such Firm Materials; instead, such Firm Materials shall remain in the Firm's sole possession and control for its exclusive use, and the Firm will (a) not waive any Privileges or disclose the Firm Materials, (b) take all reasonable steps to ensure that the Privileges survive and remain in full force and effect, and (c) assert the Privileges to prevent disclosure of any Firm Materials.

Data Protection. You further agree that, if you provide us with personal data, you have complied with applicable data protection legislation and that we may process such personal data in accordance with our Data Transfer and Privacy Policy at www.kirkland.com. We process your personal data in order to (i) carry out work for you; (ii) share the data with third parties such as expert witnesses and other professional advisers if our work requires; (iii) comply with applicable laws and regulations and (iv) provide you with information relating to our Firm and its services.

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June 17, 2022
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Conflicts of Interest. As is customary for a law firm of the Firm's size, there are numerous business entities, with which Client currently has relationships, that the Firm has represented or currently represents in matters unrelated to Client.

Further, in undertaking the representation of Client, the Firm wants to be fair not only to Client's interests but also to those of the Firm's other clients. Because Client is engaged in activities (and may in the future engage in additional activities) in which its interests may diverge from those of the Firm's other clients, the possibility exists that one of the Firm's current or future clients may take positions adverse to Client (including litigation or other dispute resolution mechanisms) in a matter in which such other client may have retained the Firm or one of Client's adversaries may retain the Firm in a matter adverse to another entity or person.

In the event a present conflict of interest exists between Client and the Firm's other clients or in the event one arises in the future, Client agrees to waive any such conflict of interest or other objection that would preclude the Firm's representation of another client (a) in other current or future matters substantially unrelated to the Engagement or (b) other than during a Restructuring Case (as defined below), in other matters related to Client (such representation an "Allowed Adverse Representation"). By way of example, such Allowed Adverse Representations might take the form of, among other contexts: litigation (including arbitration, mediation and other forms of dispute resolution); transactional work (including consensual and non-consensual merger, acquisition, and takeover situations, financings, and commercial agreements); counseling (including advising direct adversaries and competitors); and restructuring (including bankruptcy, insolvency, financial distress, recapitalization, equity and debt workouts, and other transactions or adversarial adjudicative proceedings related to any of the foregoing and similar matters).

Client also agrees that it will not, for itself or any other entity or person, assert that either (i) the Firm's representation of Client or any of Client's affiliates in any past, present, or future matter or (ii) the Firm's actual or possible possession of confidential information belonging to Client or any of Client's affiliates is a basis to disqualify the Firm from representing another entity or person in any Allowed Adverse Representation. Client further agrees that any Allowed Adverse Representation does not breach any duty that the Firm owes to Client or any of Client's affiliates. Client also agrees that the Firm's representation in the Engagement is solely of Client and that no member or other entity or person related to it (such as a shareholder, parent, subsidiary, affiliate, director, officer, partner, employee, or joint venturer) has the status of a client for conflict of interest purposes.

In addition, if a waiver of a conflict of interest necessary to allow the Firm to represent another client in a matter that is not substantially related to the Engagement is not effective for any reason, Client agrees that the Firm may withdraw from the Engagement. Should that occur, Client will not, for itself or any other entity or person, seek to preclude such termination of services or assert that either (a) the Firm's representation of Client or any of Client's affiliates in any past,

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present, or future matter or (b) the Firm's actual or possible possession of confidential information belonging to Client or any of Client's affiliates is a basis to disqualify the Firm from representing such other client or acting on such adverse matter.

It is important that you review this letter carefully and consider all of the advantages and disadvantages of waiving certain conflicts of interests that would otherwise bar the Firm from representing parties with interests adverse to you during the time in which the Firm is representing you. You also understand that because this waiver includes future issues and future clients that are unknown and unknowable at this time, it is impossible to provide you with any more details about those prospective clients and matters. Thus, in choosing to execute this waiver, you have recognized the inherent uncertainty about the array of potential matters and clients the Firm might take on in matters that are adverse to you but have nonetheless decided it is in your interest to waive conflicts of interest regarding the Allowed Adverse Representations and waive rights to prohibit the Firm's potential withdrawal should a conflict waiver prove ineffectual.

The Firm informs Client that certain entities owned by current or former Firm attorneys and senior staff ("attorney investment entities") have investments in funds or companies that may, directly or indirectly, be affiliated with Client, hold investments in Client's debt or equity securities, may be adverse to Client, or conduct commercial transactions with Client (each, a "Passive Holding"). The attorney investment entities are passive and have no management or other control rights in such funds or companies. The Firm notes that other persons may in the future assert that a Passive Holding creates, in certain circumstances, a conflict between the Firm's exercise of its independent professional judgment in rendering advice to Client and the financial interest of Firm attorneys participating in the attorney investment entities, and such other persons might seek to limit Client's ability to use the Firm to advise Client on a particular matter. While the Firm cannot control what a person might assert or seek, the Firm believes that the Firm's judgment will not be compromised by virtue of any Passive Holding. Please let us know if Client has any questions or concerns regarding the Passive Holdings. By executing this letter, Client acknowledges the Firm's disclosure of the foregoing.

Restructuring Cases. If it becomes necessary for Client to commence a restructuring case under chapter 11 of the U.S. Bankruptcy Code (a "Restructuring Case"), the Firm's ongoing employment by Client will be subject to the approval of the court with jurisdiction over the petition. If necessary, the Firm will take steps necessary to prepare the disclosure materials required in connection with the Firm's retention as lead restructuring counsel. In the near term, the Firm will begin conflicts checks on potentially interested parties as provided by Client.

If necessary, the Firm will prepare a preliminary draft of a schedule describing the Firm's relationships with certain interested parties (the "Disclosure Schedule"). The Firm will give Client a draft of the Disclosure Schedule once it is available. Although the Firm believes that these

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relationships do not constitute actual conflicts of interest, these relationships must be described and disclosed in Client's application to the court to retain the Firm.

If in the Firm's determination a conflict of interest arises in Client's Restructuring Case requiring separate conflicts counsel, then Client will be required to use separate conflicts counsel in those matters.

No Guarantee of Success. It is impossible to provide any promise or guarantee about the outcome of Client's matters. Nothing in this Agreement or any statement by Firm staff or attorneys constitutes a promise or guarantee. Any comments about the outcome of Client's matter are simply expressions of judgment and are not binding on the Firm.

Consent to Use of Information. In connection with future materials that, for marketing purposes, describe facets of the Firm's law practice and recite examples of matters the Firm handles on behalf of clients, Client agrees that, if those materials avoid disclosing Client's confidences and secrets as defined by applicable ethical rules, they may identify Client as a client, may contain factual synopses of Client's matters, and may indicate generally the results achieved.

Reimbursement of Fees and Expenses. Client agrees to promptly reimburse the Firm for all internal or external fees and expenses, including the amount of the Firm's attorney and paralegal time at normal billing rates, as incurred by the Firm in connection with participating in, preparing for, or responding to any action, claim, objection, suit, or proceeding brought by or against any third-party that relates to the legal services provided by the Firm under this Agreement. Without limiting the scope of the foregoing, and by way of example only, this paragraph extends to all such fees and expenses incurred by the Firm: in responding to document subpoenas, and preparing for and testifying at depositions and trials; and with respect to the filing, preparation, prosecution or defense of any applications by the Firm for approval of fees and expenses in a judicial, arbitral, or similar proceeding. Further, Client understands, acknowledges, and agrees that in connection with a Restructuring Case, if Client has not objected to the payment of a Firm invoice or to a Firm fee and expense application, has in fact paid such invoice, or has approved such fee and expense application, then Client waives its right (and the right of any successor entity as a result of a Transaction or otherwise) to subsequently object to the payment of fees and expenses covered by such invoice or fee application.

LLP. Kirkland & Ellis LLP is a limited liability partnership organized under the laws of Illinois, and Kirkland & Ellis International LLP is a limited liability partnership organized under the laws of Delaware. Pursuant to those statutory provisions, an obligation incurred by a limited liability partnership, whether arising in tort, contract or otherwise, is solely the obligation of the limited liability partnership, and partners are not personally liable, directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for such obligation solely by reason of being or so acting as a partner.

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Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois, without giving effect to the conflicts of law principles thereof.

Miscellaneous. This Agreement sets forth the Parties' entire agreement for rendering professional services. It can be amended or modified only in writing and not orally or by course of conduct. Each Party signing below is jointly and severally responsible for all obligations due to the Firm and represents that each has full authority to execute this Agreement so that it is binding. This Agreement may be signed in one or more counterparts and binds each Party countersigning below, whether or not any other proposed signatory ever executes it. If any provision of this Agreement or the application thereof is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of this Agreement which can be given effect without such provisions or application, and to this end the provisions of this Agreement are declared to be severable. Any agreement or waiver contained herein by Client extends to any assignee or successor in interest to Client, including without limitation the reorganized Client upon and after the effective date of a plan of reorganization in a Restructuring Case.

This Agreement is the product of arm's-length negotiations between sophisticated parties, and Client acknowledges that it is experienced with respect to the retention of legal counsel. Therefore, the Parties acknowledge and agree that any otherwise applicable rule of contract construction or interpretation which provides that ambiguities shall be construed against the drafter (and all similar rules of contract construction or interpretation) shall not apply to this Agreement. The Parties further acknowledge that the Firm is not advising Client with respect to this Agreement because the Firm would have a conflict of interest in doing so, and that Client has consulted (or had the opportunity to consult) with legal counsel of its own choosing. Client further acknowledges that Client has entered into this Agreement and agreed to all of its terms and conditions voluntarily and fully-informed, based on adequate information and Client's own independent judgment. The Parties further acknowledge that they intend for this Agreement to be effective and fully enforceable upon its execution and to be relied upon by the Parties.

* * *

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Please confirm your agreement with the arrangements described in this letter by signing the enclosed copy of this letter in the space provided below and returning it to us. Please understand that, if we do not receive a signed copy of this letter within twenty-one days, we will withdraw from representing you in this Engagement.

Very truly yours,

KIRKLAND & ELLIS LLP

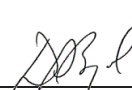
By: 

Printed Name: Joshua A. Sussberg
Title: Partner

Agreed and accepted this 17th of June, 2022

VOYAGER DIGITAL HOLDINGS, INC.

DocuSigned by:

By: 

Name: David Brosgol

Title: General Counsel 139EC73A2D4F474...

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ADDENDUM: List of Client Affiliates

Voyager Digital Ltd.
Voyager Digital, LLC

KIRKLAND & ELLIS LLP

CLIENT-REIMBURSABLE EXPENSES AND OTHER CHARGES

Effective 01/01/2022

The following outlines Kirkland & Ellis LLP's ("K&E LLP") policies and standard charges for various services performed by K&E LLP and/or by other third parties on behalf of the client which are often ancillary to our legal services. Services provided by in-house K&E LLP personnel are for the convenience of our clients. Given that these services are often ancillary to our legal services, in certain instances it may be appropriate and/or more cost efficient for these services to be outsourced to a third-party vendor. If services are provided beyond those outlined below, pricing will be based on K&E LLP's approximate cost and/or comparable market pricing.

- **Duplicating, Reprographics and Printing:** The following list details K&E LLP's charges for duplicating, reprographics and printing services:
 - ▶ Black and White Copy or Print (all sizes of paper):
 - \$0.16 per impression for all U.S. offices
 - €0.10 per impression in Munich
 - £0.15 per impression in London
 - HK\$1.50 per impression in Hong Kong
 - RMB1.00 per impression in Beijing and Shanghai
 - ▶ Color Copy or Print (all sizes of paper):
 - \$0.55 per impression
 - ▶ Scanned Images:
 - \$0.16 per page for black and white or color scans
 - ▶ Other Services:
 - CD/DVD Duplicating or Mastering - \$7/\$10 per CD/DVD
 - Binding - \$0.70 per binding
 - Large or specialized binders - \$13/\$27
 - Tabs - \$0.13 per item
 - OCR/File Conversion - \$0.03 per page
 - Large Format Printing - \$1.00 per sq. ft.
- **Secretarial and Word Processing:** Clients are not charged for secretarial and word processing activities incurred on their matters during standard business hours.
- **Overtime Charges:** Clients will be charged for overtime costs for secretarial and document services work if either (i) the client has specifically requested the after-hours work or (ii) the nature of the work being done for the client necessitates out-of-hours overtime and such work could not have been done during normal working hours. If these conditions are satisfied, costs for related overtime meals and transportation also will be charged.

- **Travel Expenses:** We charge clients our out-of-pocket costs for travel expenses including associated travel agency fees. We charge coach fares (business class for international flights) unless the client has approved business-class, first-class or an upgrade. K&E LLP personnel are instructed to incur only reasonable airfare, hotel and meal expenses. K&E LLP negotiates, uses, and passes along volume discount hotel and air rates whenever practicable. However, certain retrospective rebates may not be passed along.
- **Catering Charges:** Clients will be charged for any in-house catering service provided in connection with client matters.
- **Communication Expenses:** We do not charge clients for telephone calls or faxes made from K&E LLP's offices with the exception of third-party conference calls and videoconferences.

Charges incurred for conference calls, videoconferences, cellular telephones, and calls made from other third-party locations will be charged to the client at the actual cost incurred. Further, other telecommunication expenses incurred at third-party locations (e.g., phone lines at trial sites, Internet access, etc.) will be charged to the client at the actual cost incurred.

- **Overnight Delivery/Postage:** We charge clients for the actual cost of overnight and special delivery (e.g., Express Mail, FedEx, and DHL), and U.S. postage for materials mailed on the client's behalf. K&E LLP negotiates, uses, and passes along volume discount rates whenever practicable.
- **Messengers:** We charge clients for the actual cost of a third party vendor messenger.
- **Library Research Services:** Library Research staff provides research and document retrieval services at the request of attorneys, and clients are charged per hour for these services. Any expenses incurred in connection with the request, such as outside retrieval service or online research charges, are passed on to the client at cost, including any applicable discounts.
- **Online Research Charges:** K&E LLP charges for costs incurred in using third-party online research services in connection with a client matter. K&E LLP negotiates and uses discounts or special rates for online research services whenever possible and practicable and passes through the full benefit of any savings to the client based on actual usage.
- **Inter-Library Loan Services:** Our standard client charge for inter-library loan services when a K&E LLP library employee borrows a book from an outside source is \$25 per title. There is no client charge for borrowing books from K&E LLP libraries in other cities or from outside collections when the title is part of the K&E LLP collection but unavailable.

- **Off-Site Legal Files Storage:** Clients are not charged for off-site storage of files unless the storage charge is approved in advance.
- **Electronic Data Storage:** K&E LLP will not charge clients for costs to store electronic data and files on K&E LLP's systems if the data stored does not exceed 100 gigabytes (GB). If the data stored for a specific client exceeds 100GB, K&E LLP will charge clients \$6.00 per month/per GB for all network data stored until the data is either returned to the client or properly disposed of. For e-discovery data on the Relativity platform, K&E LLP will also charge clients \$6.00 per month/per GB until the data is either returned to the client or properly disposed of.
- **Calendar Court Services:** Our standard charge is \$25 for a court filing and other court services or transactions.
- **Supplies:** There is no client charge for standard office supplies. Clients are charged for special items (e.g., a minute book, exhibit tabs/indexes/dividers, binding, etc.) and then at K&E LLP's actual cost.
- **Contract Attorneys and Contract Non-Attorney Billers:** If there is a need to utilize a contract attorney or contract non-attorney on a client engagement, clients will be charged a standard hourly rate for these billers unless other specific billing arrangements are agreed between K&E LLP and client.
- **Expert Witnesses, Experts of Other Types, and Other Third Party Consultants:** If there is a need to utilize an expert witness, expert of other type, or other third party consultant such as accountants, investment bankers, academicians, other attorneys, etc. on a client engagement, clients will be requested to retain or pay these individuals directly unless specific billing arrangements are agreed between K&E LLP and client.
- **Third Party Expenditures:** Third party expenditures (e.g., corporate document and lien searches, lease of office space at Trial location, IT equipment rental, SEC and regulatory filings, etc.) incurred on behalf of a client, will be passed through to the client at actual cost. If the invoice exceeds \$50,000, it is K&E LLP's policy that wherever possible such charges will be directly billed to the client. In those circumstances where this is not possible, K&E LLP will seek reimbursement from our client prior to paying the vendor.

Unless otherwise noted, charges billed in foreign currencies are determined annually based on current U.S. charges at an appropriate exchange rate.

This is Exhibit “B” referred to in the Affidavit of Raajan Aery sworn by Raajan Aery at the City of Toronto, in the Province of Ontario, before me on September 28, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

6A252E5966B84E8

Commissioner for Taking Affidavits (or as may be)

DANIEL RICHER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

VOYAGER DIGITAL HOLDINGS, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 22-10943 (MEW)
)
) (Jointly Administered)
)

**ORDER GRANTING THE APPLICATION
OF VOYAGER DIGITAL HOLDINGS, INC. AUTHORIZING
THE EMPLOYMENT AND RETENTION OF BERKELEY RESEARCH
GROUP, LLC AS FINANCIAL ADVISOR EFFECTIVE AS OF JULY 5, 2022**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), for entry of an order (this “Order”), (a) authorizing the Debtors to employ and retain Berkeley Research Group, LLC (“BRG”) as financial advisor, effective as of July 5, 2022, in accordance with the terms and conditions set forth in the engagement letter dated June 30, 2022 (the “Engagement Letter”), attached hereto as **Exhibit 1**; and (b) granting related relief, all as more fully set forth in the Application; and upon the Renzi Declaration attached as **Exhibit B** to the Application; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, entered February 1, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Application

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Voyager Digital Holdings, Inc. (7687); Voyager Digital, Ltd. (7224); and Voyager Digital, LLC (8013). The location of the Debtors’ principal place of business is 33 Irving Place, Suite 3060, New York, NY 10003.

² Capitalized terms used but not otherwise defined in this Order shall have the meanings ascribed to them in the Application.

in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Application is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted and the provisions set forth in the Engagement Letter (and all attachments thereto) are hereby approved, to the extent provided herein and except as otherwise expressly modified herein to the contrary.

2. Pursuant to section 327(a) of the Bankruptcy Code, the Debtors are hereby authorized to retain BRG as financial advisor, effective as of July 5, 2022, pursuant to the terms and conditions set forth in the Application and the Engagement Letter.

3. BRG shall file interim and final fee applications for allowance of its compensation and reimbursement of its expenses with respect to services rendered in these chapter 11 cases with the Court, in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals, dated December 21, 2010 (General Order M-412), the Amended Guidelines for Fees and Disbursements for Professionals in the Southern District of New York, dated January 29, 2013 (General Order M-447), applicable U.S. Trustee guidelines,

this Order, and such other procedures as may be fixed by order of the Court. For billing purposes, BRG shall keep its time records in one-tenth (1/10) hour increments.

4. Except to the extent set forth herein, the terms of the Engagement Letter, including, without limitation, the Indemnity & Limitation of Liability provisions (the “Indemnification Provisions”) set forth therein, are approved, as modified herein.

5. Notwithstanding anything to the contrary in the Engagement Letter, there will be no limitation of liability in connection with BRG’s retention in these chapter 11 cases and the Indemnification Provisions are hereby modified and restated in their entirety as follows:

- (i) All requests of BRG for payment of indemnity pursuant to the Engagement Letter shall be made by means of an application (interim or final as the case may be) and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable based upon the circumstances of the litigation or settlement in respect of which indemnity is sought, *provided, however*, that in no event shall BRG be indemnified to the extent a court determines by final order that any claim or expense has resulted from the bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct on the part of BRG.
- (ii) In the event that BRG seeks reimbursement from the Debtors for reasonable attorneys’ fees in connection with a request by BRG for payment of indemnity pursuant to the Engagement Letter, as modified by this Order, the invoices and supporting time records from such attorneys shall be included in BRG’s own application (both interim and final) and such invoices and time records shall be subject to the fee guidelines and the approval of the Court under the standards of sections 330 and 331 of the Bankruptcy Code without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys’ services satisfy section 330(a)(3)(C) of the Bankruptcy Code.
- (iii) BRG shall not be entitled to reimbursement by the Debtors for any fees, disbursements, and other charges of BRG’s counsel other than those incurred in connection with a request of BRG for payment of indemnity, the retention of BRG, and preparation of fee applications, or those incurred in connection with a BRG expert’s deposition or testimony within these chapter 11 cases, but only in the instance where counsel to the Debtors is unable to serve as counsel to the testifying expert.

6. Notwithstanding any provision to the contrary in the Engagement Letter, any dispute relating to the services provided by BRG shall be referred to arbitration consistent with the terms of the Engagement Letter only to the extent that this Court does not have, retain, or exercise jurisdiction over the dispute, and 28 U.S.C. § 1334(e)(2) shall govern the form for resolving fee disputes.

7. BRG shall use reasonable efforts to avoid any unnecessary duplication of services provided by any of the Debtors' other retained professionals in these chapter 11 cases.

8. In connection with any increase in BRG's rates for any individual retained by BRG and providing services in these cases, BRG shall file a supplemental affidavit with the Court and provide ten business days' notice to the Debtors, the United States Trustee for the Southern District of New York ("U.S. Trustee"), and any official committee prior to filing a fee statement or fee application reflecting such an increase. The supplemental affidavit shall explain the basis for the requested rate increases in accordance with Section 330(a)(3)(F) of the Bankruptcy Code and state whether the Debtors have consented to the rate increase. The U.S. Trustee retains all rights to object to any rate increase on all grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

9. Notwithstanding anything in the Application to the contrary, to the extent that BRG uses the services of independent contractors or subcontractors (collectively, the "Contractors") in these cases, BRG shall (i) pass through the cost of such Contractors to the Debtors at the same rate that BRG pays the Contractors; (ii) seek reimbursement for actual costs only; (iii) ensure that the Contractors are subject to the same conflict checks as required for BRG; and (iv) file with the

Court such disclosures required by Bankruptcy Rule 2014. BRG does not intend to use the employees of any foreign affiliate or subsidiary in the course of this engagement.

10. In the event BRG seeks to use any of its affiliates to perform services for the Debtors, the Debtors shall seek the separate retention of any such affiliates.

11. Notwithstanding any provision to the contrary in either the Renzi Declaration or the Engagement Letter, BRG shall apply any remaining amounts of its Cash on Account (as that term is defined in paragraph 29 of the Renzi Declaration) as a credit toward postpetition fees and expenses after such postpetition fees and expenses are approved pursuant to the first Order of this Court allowing compensation and reimbursement of out-of-pocket expenses to BRG.

12. To the extent there is any inconsistency between the terms of the Engagement Letter, the Application, the Renzi Declaration, and this Order, the terms of this Order shall govern.

13. The notice requirements of Bankruptcy Rule 6004(a) are deemed waived.

14. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

15. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Application.

16. Notwithstanding any term in the Engagement Letter to the contrary, this Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: New York, New York
August 16, 2022

/s/ Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Engagement Letter

**CONFIDENTIAL**

June 30, 2022

Via Email

Stephen Ehrlich
Chief Executive Officer
Voyager Digital, LLC
33 Irving Plaza, Suite 3060
New York, NY 10003

Re: Voyager Digital – Restructuring Services

Dear Mr. Ehrlich,

This letter confirms the engagement of Berkeley Research Group, LLC (“BRG”) to provide financial advisory and consulting services to Voyager Digital, LLC (“Client”). This letter and any attachments set forth the agreement (“Agreement”) between the parties.

SCOPE OF SERVICES

The scope of services under this engagement shall consist of the following activities (“Services”):

- Support the development of restructuring plans, financing, and strategic alternatives for the Client;
- Prepare various financial analysis to support restructuring alternatives including liquidity forecast, expense levels and others as necessary;
- Provide advice to management on cash conservation measures and liquidity forecasting after analyzing and stress testing weekly cash flows under various scenarios;
- Advise the Client relative to negotiating with existing lenders and stakeholders;
- Participate in board calls as requested;
- Assist Client with the communications and negotiations with various third parties to support restructuring alternatives;
- Other services as requested or directed by the CFO and CEO, the board of directors of the Client (the “Board”) or other Client personnel as authorized by the foregoing and agreed to by BRG; and
- If a Chapter 11 bankruptcy were to become necessary, assist the Client with activities relating to such bankruptcy including, as appropriate, testimony if requested.

It is understood and agreed that BRG’s Services may include advice and recommendations, but that all decisions in connection with the implementation of such advice and recommendations will be the responsibility of Client.

FEES & EXPENSES

Client will pay BRG professional fees, which will be based on the actual hours charged at BRG’s standard hourly rates, which are in effect when the Services are rendered (“Professional Fees”). Hourly rates may change in the future from time to time and are typically adjusted annually. BRG’s current hourly rates are as follows:



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June 30, 2022

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Managing Directors & Directors	\$750 – \$1,195
Senior Staff	\$595 – \$725
Junior Staff	\$380 – \$575
Support Staff	\$195 – \$300

In addition to Professional Fees, BRG will be reimbursed for reasonable and documented direct out-of-pocket expenses including, but not limited to, travel, costs of reproduction, typing, research, communications, computer usage, legal counsel, any applicable sales or excise taxes, and other direct expenses. BRG will provide a reasonably itemized statement of expenses incurred on this engagement, and shall provide copies of original invoice or other documentation on itemized expenses over \$75 upon request. Client shall reimburse BRG for reasonable itemized expenses less than \$75 without a copy of the original invoice or other documentation.

BRG will bill for Services every two (2) weeks and will provide customary descriptions regarding the Services rendered. BRG will provide additional details regarding Services rendered upon request by Client. BRG's invoices statements shall be paid within seven (7) days of the invoice date. Client agrees that it will review BRG's invoices upon receipt and will advise BRG of any objection to or dispute with the invoice and the work reflected in the invoice within seven (7) days of the invoice date.

Without liability, BRG reserves the right to withhold delivery of Services, testimony, reports or data (written or oral), or suspend work, if the account on this engagement is not current. A late payment charge of one percent (1%) per month (or the maximum rate permitted by law, whichever is less) may be added to any outstanding invoices that are past due.

Please remit payments by wire to:

Account Name: Berkeley Research Group, LLC

Account No: 8026286672

Bank: PNC Bank, N.A.

ABA No: 031207607

remiadvice@thinkbrg.com

CASH ON ACCOUNT

Initially, Client will forward to BRG the amount of \$250,000, which funds will be held "on account" to be applied to BRG's Professional Fees, charges and disbursements for the engagement (the "Initial Cash on Account"). To the extent that this amount exceeds BRG's fees, charges and disbursements upon the completion of the engagement, BRG will refund any unused portion. Client agrees to increase or supplement the Initial Cash on Account from time to time during the course of the engagement in such amounts as Client and BRG mutually shall agree are reasonably necessary to increase the Initial Cash on Account to a level that will be sufficient to fund Professional Fees, charges, and disbursements to be incurred.

Upon transmittal of an invoice, BRG may immediately draw upon the Initial Cash on Account (as replenished from time to time) in the amount of the invoice. Client agrees upon submission of each such invoice to promptly wire the invoice amount to BRG as replenishment of the Initial Cash on Account (together with any supplemental amount to which BRG and Client mutually agree), without prejudice to



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June 30, 2022

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Client's right to advise BRG of any differences it may have with respect to such invoice. BRG has the right to apply to any outstanding invoice (including amounts billed prior to the date hereof), up to the remaining balance, if any, of the Initial Cash on Account (as may be supplemented from time to time) at any time subject to (and without prejudice to) Client's opportunity to review BRG's invoices.

COMPANY RESPONSIBILITIES

Client agrees that the delivery of Services and Professional Fees charged are dependent on timely and effective cooperation from the Client. Accordingly, Client shall furnish to BRG financial information and other information regarding the business of Client as BRG may reasonably request in connection with the Agreement. Client also represents that information furnished to BRG is accurate and complete at the time it is furnished and agrees to keep BRG advised of developments materially affecting Client or its financial position. Client shall make decisions and take further actions, as Client determines in its sole discretion, relating to any recommendations made by BRG in connection with this Agreement.

BRG shall not make any management decisions on behalf of Client and will not be responsible for Client's decision to pursue, or not to pursue, any business strategy or to implement, or not implement, recommendations made by BRG. As part of the Services, BRG may be requested to assist Client (and its legal or other advisors) in negotiating with Client's creditors and equity holders and with other interested parties. In the event that BRG participates in such negotiations, the representations made and the positions advanced will be those of Client and its management, not BRG or its employees.

CONFIDENTIALITY

BRG shall not disclose any confidential or privileged information to any third party; provided, however, that BRG may disclose confidential or privileged information (a) to BRG's employees, affiliates, vendors or agents who provide Services in connection with this engagement, (b) with Client's written consent, or (c) when legally required to do so. Both parties agree that confidential and proprietary information will not be construed to include information that is available from public sources or sources not subject to obligations of confidentiality to Client. Work papers associated with BRG's consulting Services are the confidential property of BRG.

OWNERSHIP OF DELIVERABLES & DATA

Client acknowledges and agrees that BRG is the sole owner of any deliverables provided in connection with the Services, including, without limitation, all copyrights, trademarks, patents and trade secrets and other intellectual property rights (including, without limitation, goodwill) therein, and all rights attendant thereto. BRG hereby grants to Client a non-exclusive, royalty-free irrevocable right to use the deliverables for its own internal purposes. To the extent that Client wishes to disclose to any third party the work product of BRG, it will so advise BRG prior to such disclosure. BRG may require any third party to execute a non-reliance and release letter acceptable to BRG in form and substance. Further, BRG will not assume, or be deemed to have assumed, any responsibility, obligation or liability to any third party to which any advice, report or other work product is disclosed or otherwise made available.

Client represents and warrants that Client has any and all necessary right, title, license and authority (including any and all necessary permissions from third-party owners) to transfer to BRG, grant access to BRG or allow BRG to use for the purpose of rendering Services to Client, any and all of the data or other



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information that Client provides to BRG for such purpose. Client agrees to indemnify BRG against any and liabilities, including liabilities arising from claims brought by third parties and any and all costs of defense, arising from such transfer, access or use.

CONFLICTS OF INTEREST

BRG is engaged by many other companies and individuals. It is possible that some of BRG's past, current or future clients had, have or may have disputes or other matters that are adverse to or may not be consistent with the interests of Client. BRG reserves the right to undertake unrelated engagements during and after this engagement by Client, consistent with BRG's internal policies. BRG will not be required to disclose any such unrelated engagements to Client. BRG will institute procedures to protect the confidentiality of information provided by Client in the course of this engagement.

ARBITRATION

This Agreement shall be interpreted and controlled by the laws of the state of Delaware. Any controversy, dispute, or claim between Client on the one hand and BRG on the other hand of whatever nature arising out of, in connection with, or in relation to the interpretation, performance or breach of this agreement, including any claim based on contract, tort, or statute ("Claims"), shall be resolved at the request of any party to this agreement, by final and binding arbitration, administered by Judicial Arbitration & Mediation Services, Inc. (JAMS), or its successor entity, pursuant to Streamlined Arbitration Rules & Procedures, and judgment upon any award rendered by the arbitrator may be entered by any State or Federal Court having jurisdiction thereof. Any such arbitration shall take place exclusively in Massachusetts. The prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in any arbitration or litigation brought in connection with this Agreement, as well as reasonable attorneys' fees and costs incurred in appealing or in connection with any action to enforce any judgment entered by the arbitrator in any court having jurisdiction. If a party to any arbitration proceeding filed in connection with this Agreement fails to pay any costs of the arbitration required to be paid by such party in the time required for payment, the arbitrator is authorized to provide an appropriate remedy, including an entry of a default and an arbitration award on the merits against such party.

INDEMNITY & LIMITATION OF LIABILITY

Client agrees to indemnify and hold harmless BRG against any and all losses, claims, damages, liabilities, penalties, judgments, awards, costs, fees, expenses and disbursements including, without limitation, defending any action, suit, proceedings or investigation (whether or not in connection with proceedings or litigation in which BRG is a party), directly or indirectly, caused by, relating to, based upon, arising out of or in connection with the engagement of BRG or any Services rendered pursuant to this engagement, unless there is a final non-appealable order of a court of competent jurisdiction finding BRG directly liable for gross negligence or willful misconduct. These indemnification provisions extend to the members, principals, employees, representatives, agents, counsel and affiliates of BRG.

The parties shall not be liable to each other for any delays resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.



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Notwithstanding the indemnification and any other terms of this Agreement, the parties shall not be liable to each other for any consequential, incidental, special or punitive damages, nor shall BRG be liable for direct compensatory damages in excess of the fees actually received by BRG for the performance of Services hereunder.

TERMINATION

Client or BRG may terminate this engagement upon seven (7) days' written notice. In the event the engagement is terminated prior to the completion of Services, Clients agrees to pay BRG for all Professional Fees and expenses incurred through the termination date.

OTHER TERMS

In the event BRG is requested pursuant to subpoena or other legal process to produce any documents or to provide testimony relating to engagements for Client in judicial or administrative proceedings to which BRG is not a party, Client shall reimburse BRG at standard billing rates for all professional time and expenses, including reasonable attorneys' fees, incurred in preparing for and responding to requests for documents and providing testimony.

Client will only use any advice, report or work product produced under this engagement for making its own internal business decisions. Client will solely rely on its own analysis and review to make any investment or other business decision. BRG will not render an assurance report or assurance opinion as part of this engagement, nor will the Services constitute an audit, review or examination of any entity's financial statements or prospective financial statements in accordance with generally accepted auditing standards or other applicable professional standards. None of the Services or any report will constitute any legal opinion or advice, nor will the Services or any reports constitute a fairness opinion, investment or accounting advice. BRG will not conduct a review to detect fraud or illegal acts, nor will BRG render any opinion as to the fairness or advisability of any proposed transaction. In addition, Client acknowledges that no reliance shall be placed on draft reports, conclusions or advice, whether oral or written, issued by BRG as the same may be subject to further work, revision and other factors which may mean that such drafts are substantially different from any final report issued by BRG. Client will not use the report or work product under this engagement for any use beyond the use set forth in this letter.

Unless otherwise explicitly stated, all provisions of this Agreement shall survive the expiration or termination of this engagement. Neither party may assign, transfer or delegate any of the rights or obligations hereunder without the prior written consent of the other party. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This engagement letter and its terms and conditions constitute the entire Agreement between BRG and Client with respect to the subject matter hereof and supersedes all other oral and written representations, understandings or agreements relating to the subject matter hereof. No waiver, amendment or other modification of this Agreement shall be effective unless in writing and signed by each party to be bound thereby.



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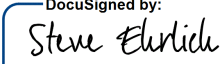
This Agreement may be executed in one or more counterparts, each of which may be signed and transmitted via facsimile or PDF electronic delivery with the same validity as if it were an ink-signed document.

Sincerely,

Mark Renzi
Managing Director

AGREED AND ACCEPTED:

Voyager Digital, LLC

By 
3724C7F0863B426...
Stephen Ehrlich, CEO

Dated 6/30/2022

This is Exhibit “C” referred to in the Affidavit of Raajan Aery sworn by Raajan Aery at the City of Toronto, in the Province of Ontario, before me on September 28, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Daniel Richer

6A252E5966B84E8

Commissioner for Taking Affidavits (or as may be)

DANIEL RICHER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:)	Chapter 11
)	
VOYAGER DIGITAL HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 22-10943 (MEW)
)	
Debtors.)	(Jointly Administered)
)	

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION
OF MOELIS & COMPANY LLC AS INVESTMENT BANKER AND CAPITAL
MARKETS ADVISOR TO THE DEBTORS, EFFECTIVE AS OF THE PETITION DATE**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”): (a) authorizing the employment and retention of Moelis & Company LLC (“Moelis”) to serve as the Debtors’ investment banker and capital markets advisor, effective as of the Petition Date pursuant to sections 327(a) and 328(a) of the Bankruptcy Code; (b) approving the provisions of the engagement letter between Moelis and the Debtors, dated as of June 20, 2022 (“Engagement Letter”), attached hereto as **Exhibit 1**, including the compensation arrangements and indemnification, contribution, and reimbursement provisions set forth therein; (c) modifying the timekeeping requirements of Local Rule 2016-1, the Amended Guidelines, the U.S. Trustee Guidelines and any other applicable procedures and orders of the Court in connection with Moelis’ engagement; and (d) granting such other relief as is just and proper, all as more fully set forth in the Application; and upon the Dermont Declaration; and this Court having jurisdiction over this

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Voyager Digital Holdings, Inc. (7687); Voyager Digital, Ltd. (7224); and Voyager Digital, LLC (8013). The location of the Debtors’ principal place of business is 33 Irving Place, Suite 3060, New York, NY 10003.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application or the Engagement Letter, as applicable.

matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, entered February 1, 2012; and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. §157(b); and this Court having found that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the relief sought in the Application is in the best interests of the Debtors' estates, their creditors, and other parties in interest, and that the legal and factual bases set forth in the Application, the Dermont Declaration, and at the Hearing establish just cause for the relief granted herein; and the Court being satisfied, based upon the representations made in the Application and the Dermont Declaration that (a) Moelis does not hold or represent an interest adverse to the Debtors' estates, and (b) Moelis is a "disinterested person" as defined in section 101(14) of the Bankruptcy Code as required by section 327(a) of the Bankruptcy Code; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted as set forth in this Order, and the provisions set forth in the Engagement Letter (and all attachments thereto) are hereby approved, to the extent provided herein and except as otherwise expressly modified herein to the contrary.

2. In accordance with sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, the Debtors are authorized to employ and retain Moelis as their investment banker and capital markets advisor in these chapter 11 cases in accordance with the terms and conditions set forth in the Engagement Letter, as modified herein, to pay fees and reimburse expenses, and to provide indemnification, contribution, and/or reimbursement to Moelis on the terms and at the times specified in the Engagement Letter as modified herein, effective as of the Petition Date.

3. Moelis shall be compensated for fees and reimbursed for reasonable and documented out-of-pocket expenses by the Debtors in accordance with the terms of the Engagement Letter, as modified herein, and all fees to be paid to Moelis, including without limitation the Monthly Fees, the Sale Transaction Fee, and the Restructuring Fee, shall be subject to section 328(a) of the Bankruptcy Code, except as otherwise set forth herein.

4. Moelis is authorized to apply the Expense Retainer to any unbilled or otherwise remaining prepetition expenses that Moelis becomes aware of during its ordinary course billing review and reconciliation. Moelis shall apply any remaining amounts of the Expense Retainer as a credit towards postpetition fees and expenses after such postpetition fees and expenses are approved pursuant to the first order of the Court awarding fees and expenses to Moelis.

5. Notwithstanding anything to the contrary contained herein or in the Application and/or Engagement Letter, Moelis shall file interim and final fee applications for allowance of compensation and reimbursement of reasonable and documented out-of-pocket expenses pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Amended Guidelines, the U.S. Trustee Guidelines and any other procedures or orders of the Bankruptcy Court; *provided, however*, the U.S. Trustee retains all rights to respond or object to

Moelis' interim and final applications for compensation (including without limitation the Monthly Fees, the Sale Transaction Fee, and the Restructuring Fee) and reimbursement of out-of-pocket expenses pursuant to section 330 of the Bankruptcy Code, and the Court retains jurisdiction to consider the U.S. Trustee's response or objection to Moelis' interim and final fee applications pursuant to section 330 of the Bankruptcy Code; *provided, further*, that "reasonableness" shall be evaluated by comparing (among other things) the fees payable in these chapter 11 cases to fees paid to comparable investment banking firms with similar experience and reputation offering comparable services in other chapter 11 cases and shall not be evaluated solely on an hourly or length-of-case based criteria.

6. Notwithstanding anything to the contrary in the Application, the Engagement Letter or herein, the requirements of the Bankruptcy Rules, the Local Rules, the Amended Guidelines, the U.S. Trustee Guidelines, and any other procedures or orders of the Court, are hereby modified such that Moelis' restructuring professionals, with the exception of clerical and administrative staff, shall be required only to keep reasonably detailed time records of the services they have performed in half-hour increments, Moelis' non-restructuring professionals and personnel in administrative departments (including legal) shall not be required to keep time records, Moelis' professionals shall not be required to keep time records on a project category basis, and Moelis shall not be required to provide or conform to any schedule of hourly rates.

7. In the event that Moelis seeks reimbursement from the Debtors for attorneys' fees and expenses pursuant to the Application and the Engagement Letter, the invoices and supporting time records for the attorneys' fees and expenses shall be included in Moelis' own applications, both interim and final, and such invoices and time records shall be subject to the U.S. Trustee Guidelines and to the approval of the Court pursuant to section 330 and 331 of the Bankruptcy

Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code, and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code. Attorneys' fees and/or expenses reimbursed under the Engagement Letter shall be limited to those expended in representing Moelis in retention and fee application matters. For the avoidance of doubt, the preceding sentence does not apply to, and in no way limits, the provisions with respect to reimbursement of attorneys' fees and/or expenses set forth in Annex B to the Engagement Letter with respect to indemnification.

8. The indemnification, exculpation, contribution, and reimbursement provisions included in Annex B to the Engagement Letter are approved, subject during the pendency of these chapter 11 cases to the following modifications:

- a. All requests of Moelis for payment of indemnity pursuant to the Engagement Letter shall be made by means of an application (interim or final as the case may be) and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable based upon the circumstances of the litigation or settlement in respect of which indemnity is sought, provided, however, that in no event shall Moelis be indemnified in the case of its own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct;
- b. In the event that Moelis seeks reimbursement from the Debtors for reasonable attorneys' fees in connection with a request by Moelis for payment of indemnity pursuant to the Engagement Letter, as modified by this Order, the invoices and supporting time records from such attorneys shall be included in Moelis's own application (both interim and final) and such invoices and time records shall be subject to the Fee Guidelines and the approval of the Court under the standards of sections 330 and 331 of the Bankruptcy Code without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code;
- c. Moelis shall not be entitled to reimbursement by the Debtors for any fees, disbursements and other charges of Moelis's counsel other than those incurred in connection with a request of Moelis for payment of indemnity, retention of Moelis and preparation of fee applications; and

- d. In no event shall Moelis be indemnified if the Debtor(s) or representatives of the estates assert a claim for, and a court determines by final order that such claim arose out of, Moelis's own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct.

9. Moelis shall use its reasonable efforts to avoid any duplication of services provided by any of the Debtors' other retained professionals in these chapter 11 cases.

10. Notwithstanding anything to the contrary in the Application and/or Engagement Letter, to the extent that Moelis uses the services of independent contractors or employees of foreign affiliates or subsidiaries (collectively, the "Contractors") in these cases, Moelis (i) shall pass-through the cost of such Contractors to the Debtors at the same rate that Moelis pays the Contractors; (ii) shall seek reimbursement for actual out-of-pocket expenses only; and (iii) shall ensure that the Contractors are subject to the same conflict checks and disclosures as required of Moelis by Rule 2014 of the Bankruptcy Rules.

11. Notwithstanding anything to the contrary in the Application, this Order, or any findings announced at the hearing, nothing in the Application, this Order, or announced at the hearing constitutes a finding under the federal securities laws as to whether crypto tokens or transactions involving crypto tokens are securities, and the right of the United States Securities and Exchange Commission to challenge transactions involving crypto tokens on any basis are expressly reserved.

12. Notwithstanding anything to the contrary contained in the Application, the Engagement Letter or this Order, the Engagement Letter shall be modified as follows:

- a. The definition of "Sale Transaction" shall be deleted in its entirety and replaced with the following:

"Sale Transaction" means (a) the sale, disposition or other transfer (in one or a series of transactions) of all or substantially all (i) the equity securities of the Company, or (ii) the assets, properties or businesses of the Company (excluding for purposes hereof the loan to Three Arrows Capital); or, (b) the merger, consolidation, spin-off, split-off, joint venture, partnership,

reverse merger or other business combination transaction involving the Company. For the avoidance of doubt, the sale, disposition, or other transfer (in one or a series of transactions) of all or substantially all of the Company's customer accounts shall constitute a Sale Transaction.

- b. Paragraph 2(a)(iii) is deleted in its entirety and replaced with the following:

Restructuring Fee

At the closing of a Restructuring, a fee (the "Restructuring Fee") of \$11,000,000.

In the event of a Crypto Liquidation (as defined below) requiring the Company to retain a third-party to sell crypto and distribute the proceeds through a liquidating plan, 50% of such third party's fees shall be credited against the Restructuring Fee, subject to a crediting cap of \$2,000,000. A "Crypto Liquidation" is the sale or conversion into USD of at least 50% of the Company cryptocurrency coins, tokens, or other blockchain-related assets (collectively "Crypto Assets"), which is: (x) executed directly by the Company at prevailing market prices through one or more of its existing liquidity providers; (y) executed on a bilateral basis through bid list requests for the various Crypto Assets (e.g., the Company soliciting Bids Wanted in Competition or "BWICs") in one or more transactions; or (z) executed as a block trade(s) negotiated directly by the Company with one or more of its existing liquidity providers. Notwithstanding the foregoing, any transaction that Moelis had direct involvement in soliciting or negotiating shall not be deemed a Crypto Liquidation.

For the avoidance of doubt, a Crypto Liquidation excludes any transaction in which an Acquirer (i) purchases the Crypto Assets as part of a broader transaction (e.g., the FTX proposal publicly made on July 22nd or any variations thereof), (ii) acquires any other assets of the Company in one or a series of transactions, in addition to the Crypto Assets, or (iii) a transaction which is determined by the Official Committee of Unsecured Creditors to be preferred to a transaction available through the Bidding Procedures process that would not be a Crypto Liquidation

- c. Paragraph 2(a)(iv) is deleted in its entirety and replaced with the following:

Sale Transaction Fee

(iv) At the closing of a Sale Transaction, a non-refundable cash fee (the "Sale Transaction Fee") of \$11,000,000.

In the event of a Sale Transaction that is consummated pursuant to Section 363 of the Bankruptcy Code, such Sale Transaction shall trigger a Restructuring Fee that shall be earned and payable at the earlier of the

closing of the sale or confirmation of a plan. In the event that a Sale Transaction is consummated prior to confirmation of a plan, Moelis shall continue to perform its services under this Agreement until effectiveness of a plan of reorganization unless the Company terminates this Agreement in accordance with its terms; provided, however, that in order to effectuate the 50% crediting of Monthly Fees, any additional Monthly Fees shall be reduced in a corresponding manner. To the extent a Transaction is both a Sale Transaction and a Restructuring, the Company shall pay the Restructuring Fee. Notwithstanding anything to the contrary contained in this Agreement, in no event shall Moelis be paid (a) more than one Restructuring Fee; (b) more than one Sale Transaction Fee; or (c) both a Restructuring Fee and a Sale Transaction Fee.

13. The Court is not presently approving paragraph 2(a)(v) of the Engagement Letter, without prejudice to the Debtors' and Moelis' right to seek approval of Capital Transaction Fee terms at a later date.

14. Such services other than set forth in the Application that the Debtors may request that Moelis provide during the course of these chapter 11 cases, and as agreed to by Moelis, shall be subject to separate application and order of this Court.

15. The Debtors and Moelis are authorized and empowered to take all actions necessary to implement the relief granted in and pursuant to this Order.

16. Notice of the Application as provided therein shall be deemed good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

17. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

18. Notwithstanding any provision to the contrary in the Application or the Engagement Letter, the Bankruptcy Court shall retain jurisdiction to hear and to determine all matters arising from or related to implementation, interpretation, or enforcement of this Order.

19. To the extent that there is any inconsistency between the Engagement Letter, the Application, the Dermont Declaration, and this Order, the provisions of this Order shall apply.

Dated: New York, New York
August 16, 2022

/s/ **Michael E. Wiles**

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Engagement Letter

June 20, 2022

CONFIDENTIAL

Voyager Digital Holdings, Inc.
33 Irving Place 3rd Floor
New York, NY 10003

Attention: Stephen Ehrlich, Chief Executive Officer

Dear Mr. Ehrlich:

This agreement confirms that, since June 16, 2022, Voyager Digital Holdings, Inc. (together with its affiliates and direct and indirect subsidiaries listed on *Annex A*, the “Company”) has engaged Moelis & Company LLC (“Moelis”) to act as the Company’s financial advisor, capital markets advisor and investment banker in connection with the Company’s proposed Restructuring, Sale Transaction or Capital Transaction (each as defined below).

“Restructuring” means any restructuring, reorganization, repayment, refinancing, rescheduling or recapitalization of all or a material portion of the liabilities of the Company (including its direct or indirect subsidiaries), however such result is achieved, including, without limitation, through a plan of reorganization or liquidation (a “Plan”) confirmed in connection with a case (a “Bankruptcy Case”) commenced by or against the Company or any of its subsidiaries or affiliates under title 11 of the United States Code (the “Bankruptcy Code”), an exchange offer or consent solicitation, covenant relief, a rescheduling of debt maturities, a change in interest rates, a settlement or forgiveness of debt, a conversion of debt into equity, or other amendments to the Company’s debt instruments, an issuance of new securities, raising of new debt or equity capital, or a sale, disposition or other transfer (regardless of form), including to existing creditors of the Company, of all or a significant portion of the equity, interests, assets, properties, cash flows or businesses of the Company.

“Sale Transaction” means (a) the sale, disposition or other transfer (in one or a series of transactions) of a significant portion of (i) the equity securities of the Company, or (ii) the assets, properties or businesses of the Company; or, (b) the merger, consolidation, spin-off, split-off, joint venture, partnership, reverse merger or other business combination transaction involving the Company.

“Capital Transaction” means a transaction in which the Company (or any entity formed to acquire the business or assets of the Company) raises or issues any (a) secured or unsecured debt (including, without limitation, any asset-backed debt, or debtor-in-possession financing in connection with a Bankruptcy Case); (b) equity interests (including, without limitation, preferred stock or common stock) or equity-linked interests (including convertible debt); (c) hybrid capital; or (d) options, warrants or other rights to acquire equity interests; provided, however, that the Company’s revolving line of credit with Alameda Research announced on June 17, 2022, shall not be considered a Capital Transaction for purposes of this agreement.

A “Transaction” means either a Restructuring, a Sale Transaction and/or a Capital Transaction, as the context requires.

1. As part of our engagement, Moelis will if appropriate and requested:

MOELIS & COMPANY

- (a) assist the Company in reviewing and analyzing the Company's results of operations, financial condition and business plan;
- (b) assist the Company in reviewing and analyzing any potential Restructuring, Sale Transaction or Capital Transaction;
- (c) assist the Company in negotiating a Restructuring, Sale Transaction or Capital Transaction;
- (d) advise the Company on the terms of securities it offers in a potential Capital Transaction.
- (e) advise the Company on its preparation of information memoranda for a potential Sale Transaction or Capital Transaction (each, an "Information Memo");
- (f) assist the Company in contacting potential Acquirers or purchasers of a Capital Transaction ("Purchasers") that Moelis and the Company agree are appropriate, and meet with and provide them with the Information Memo and such additional information about the Company's assets, properties or businesses that is acceptable to the Company, subject to customary business confidentiality agreements; and
- (g) provide such other financial advisory and investment banking services in connection with a Restructuring, Sale Transaction or Capital Transaction as Moelis and the Company may mutually agree upon.

Please note that Moelis does not provide legal, tax, accounting or actuarial advice. This agreement is not a commitment, express or implied, on the part of Moelis to purchase or place the Capital Transaction or any other financing and it is acknowledged that Moelis' services with respect to a Capital Transaction will be made on a reasonable best efforts basis. Moelis' obligations under this agreement with respect to a Capital Transaction are subject to, among other things: (i) satisfactory completion of its due diligence review and (ii) satisfactory market conditions.

2. (a) As compensation for our services hereunder, the Company agrees to pay Moelis the following nonrefundable cash fees:

Retainer Fee

- (i) Promptly after execution of this agreement, a retainer fee of \$600,000 (the "Retainer Fee"). The Retainer Fee shall be offset, to the extent previously paid, against the first 3 Monthly Fees (as defined below).

Monthly Fee

- (ii) During the term of this agreement, a fee of \$200,000 per month (the "Monthly Fee"), payable in advance of each month. The Company will pay the first Monthly Fee immediately upon the execution of this agreement, and all subsequent Monthly Fees prior to each monthly anniversary of the date of this agreement. Whether or not a Restructuring, Sale Transaction or Capital Transaction occurs, Moelis shall earn and be paid the Monthly Fee every month during the term of this agreement. 50% of the Monthly Fee shall be offset, to the extent previously paid, against the first Sale Transaction Fee and the Restructuring Fee (each as defined below).

MOELIS & COMPANY

Restructuring Fee

- (iii) At the closing of a Restructuring, a fee (the “Restructuring Fee”) of \$11,000,000. The Company will pay a separate Restructuring Fee in respect of each Restructuring in the event that more than one Restructuring occurs.

Sale Transaction Fee

- (iv) At the closing of a Sale Transaction, a non-refundable cash fee (the “Sale Transaction Fee”) of \$12,000,000.

In the event of a Sale Transaction that is consummated pursuant to Section 363 of the Bankruptcy Code, such Sale Transaction shall trigger a Restructuring Fee. To the extent a Transaction is both a Sale Transaction and a Restructuring Transaction, the Company shall pay the Restructuring Fee.

Capital Transaction Fee

- (v) At the closing of a Capital Transaction, a non-refundable cash fee (the “Capital Transaction Fee”) of:

(a) 4.00% of the aggregate gross amount or face value of capital Raised (as defined below) in the Capital Transaction as equity, equity-linked interests, options, warrants or other rights to acquire equity interests, plus

(b) 2.00% of the aggregate gross amount of debt obligations and other interests Raised in the Capital Transaction.

The Company will pay a separate Capital Transaction Fee in respect of each Capital Transaction in the event that more than one Capital Transaction occurs. “Raised” includes the amount committed to the Company, whether or not the Company draws the full amount, and whether or not the company applies such amounts to refinance any of its obligations.

The fees set forth in Section 2(a)(iii), (iv), and (v) shall be referred to herein as the “Transaction Fees”. The Company agrees that it will pay the applicable Transaction Fee(s) for each Transaction in accordance with the terms hereof.

In connection with a Transaction intended to be consummated in connection with a pre-packaged or pre-arranged Plan, the applicable Transaction Fee(s) shall be earned upon the execution of a definitive agreement with respect to such Plan; provided that if the Plan contemplating such Transaction(s) does not become effective, then Moelis shall credit the applicable Transaction Fee(s) against any future Transaction Fee that becomes due and payable upon the closing of another Transaction.

If, at any time prior to the end of the Tail Period (as defined below), the Company consummates any Restructuring, Sale Transaction or Capital Transaction or enters into an agreement (or a Plan is filed) regarding any Restructuring, Sale Transaction or Capital Transaction and a Restructuring, Sale Transaction or Capital Transaction is subsequently consummated, then the Company (or its bankruptcy estates) shall pay Moelis the applicable fee(s) specified in Section 2(a) above immediately upon the closing of any such

MOELIS & COMPANY

Transaction(s). The “Tail Period” shall end (i) in the case of any Restructuring, Sale Transaction or Capital Transaction consummated out-of-court, 12 months following the expiration or termination of this agreement or (ii) otherwise 18 months following the expiration or termination of this agreement.

(b) Whether or not the Company consummates a Restructuring, Sale Transaction or Capital Transaction, the Company will reimburse Moelis for all of its reasonable and documented out-of-pocket expenses as they are incurred in entering into and performing services pursuant to this agreement. In connection therewith, the Company shall pay Moelis upon execution of this agreement and maintain thereafter a \$25,000 expense advance, the unused portion of which Moelis shall return to the Company following termination of this agreement. Moelis agrees to provide the Company with reasonable support for its expenses at the Company’s request or at the Bankruptcy Court’s direction.

(c) The Company’s obligation to pay any fees or expenses set forth herein or to pay any amounts under ***Annex B*** hereto are not subject to any reduction by way of setoff, recoupment or counterclaim. All fees, expenses and any other amounts payable hereunder are payable in U.S. dollars, free and clear of any withholding taxes or deductions, to the bank account set forth on ***Schedule 1***.

(d) If Moelis is required to render services not set forth in this agreement, including, without limitation, producing documents, being deposed, providing testimony, relating to this agreement or the transactions contemplated by this agreement, the Company will pay Moelis additional fees to be mutually agreed for such services, plus reasonable and documented out-of-pocket costs and expenses related thereto.

(e) Moelis will make a substantial commitment of professional time and effort hereunder, which may foreclose other opportunities for it. Moreover, the actual time and effort required for the engagement may vary substantially from time to time. In light of the numerous issues that may arise in engagements such as this, Moelis’ commitment of the time and effort necessary to address the issues that may arise in this engagement, Moelis’ expertise and capabilities that the Company will require in this engagement, and the market rate for professionals of Moelis’ stature and reputation, the parties agree that the fee arrangement provided herein is just and reasonable, fairly compensates Moelis, and provides the requisite certainty to the Company.

3. If a Bankruptcy Case is commenced:

(a) The Company will use its reasonable best efforts to seek a final order of the Bankruptcy Court authorizing our employment as the Company’s financial adviser under this agreement pursuant to, and subject to the standards of review set forth in, section 328(a) of the Bankruptcy Code (and not subject to the standards of review set forth in section 330 of the Bankruptcy Code), nunc pro tunc to the date of the filing of the Bankruptcy Case. The retention application and any order authorizing Moelis’ retention must be acceptable to Moelis. Prior to commencing a Bankruptcy Case, the Company will pay all fees then earned and payable and will reimburse Moelis for all expenses that Moelis incurred prior to commencement in accordance with this agreement.

(b) Moelis will have no obligation to provide services unless the Bankruptcy Court approves Moelis’ retention in a final non-appealable order acceptable to Moelis under section 328(a) of the Bankruptcy Code within 60 days following the filing of a voluntary chapter 11 case or the entry of an order for relief in any involuntary chapter 11 case. If neither the Company nor Moelis obtain such an order within such 60-day period, or such order is later reversed, vacated, stayed or set aside for any reason, Moelis may terminate this agreement, and the Company shall reimburse Moelis for all fees owing and expenses incurred prior to the date of termination, subject to the requirements of the Bankruptcy Rules, and Moelis shall be

MOELIS & COMPANY

entitled to a contingent claim with respect to any fees that become payable under the last paragraph of Section 2(a).

(c) Moelis' post-petition compensation, reasonable and documented out-of-pocket expense reimbursements and payment received pursuant to the provisions of **Annex B** shall be entitled to priority as expenses of administration under sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code, and shall be entitled to the benefits of any "carve-outs" for professional fees and expenses in effect pursuant to one or more financing orders entered by the Bankruptcy Court. Following entry of an order authorizing our retention, the Company will assist Moelis in preparing, filing and serving fee statements, interim fee applications, and a final fee application. The Company will support Moelis' fee applications that are consistent with this agreement in papers filed with the Bankruptcy Court and during any Bankruptcy Court hearing. The Company will pay promptly our fees and expenses approved by the Bankruptcy Court and in accordance with the Bankruptcy Rules.

(d) The Company will use its reasonable best efforts to ensure that, to the fullest extent permitted by law, any confirmed plan of reorganization or liquidation in the Bankruptcy Case contains typical and customary releases (both from the Company and from third parties) and exculpation provisions releasing, waiving, and forever discharging Moelis, its divisions, affiliates, any person controlling Moelis or its affiliates, and their respective current and former directors, officers, partners, managers, members, agents, representatives and employees from any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, and liabilities related to the Company or the engagement described in this agreement.

The terms of this Section 3 are solely for the benefit of Moelis, and may be waived, in whole or in part, only by Moelis.

4. The Company will furnish Moelis with all information concerning the Company and, to the extent available to the Company, the Acquirer as Moelis reasonably deems appropriate (collectively, the "Information") to execute this engagement and will provide Moelis with access to the Company's officers, directors, employees, accountants, counsel and other representatives of the Company and, as practicable, those of the Acquirer. To the best of the Company's knowledge, the Information will be true and correct in all material respects and will not contain any material misstatement of fact or omit to state any material fact necessary to make the statements contained therein not misleading. The Company will advise Moelis promptly of any material event or change in the business, affairs, condition (financial or otherwise) or prospects of the Company or, to the Company's knowledge, the Acquirer that occurs during the term of this agreement. In performing our services hereunder, Moelis will be entitled to use and rely upon the Information as well as publicly available information without independent verification. Moelis is not required to conduct a physical inspection of any of the properties or assets, or to prepare or obtain any independent evaluation or appraisal of any of the assets or liabilities of the Company. Moelis is not evaluating the solvency of any party under applicable laws relating to bankruptcy, insolvency or similar matters. Moelis will be entitled to assume that financial forecasts and projections the Company or any Acquirer makes available to Moelis have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of the Company or such Acquirer, as the case may be, as to the matters covered thereby. The Company authorizes Moelis to transmit any Information Memos to potential parties to a Sale Transaction or Capital Transaction. The Company will be solely responsible for the contents of any Information Memo and all other information provided to prospective Purchasers in a Capital Transaction.

MOELIS & COMPANY

Moelis will not disclose to any third party nonpublic Information concerning the Company or the Transaction parties provided to Moelis in connection with this agreement as long as it remains nonpublic, except (i) as otherwise required by subpoena or court order and for private disclosure to our financial regulatory authorities and (ii) Moelis may provide nonpublic Information to prospective Transaction parties as contemplated by this agreement. This paragraph shall terminate one year following the date of this agreement.

The Company represents and warrants to Moelis that the information provided to any prospective purchaser or seller of a security by or on behalf of the Company in any Restructuring, Sale Transaction or Capital Transaction (or any combination thereof), at the closing thereof, taken as a whole, will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

At the closing of a Capital Transaction pursuant to an exemption from registration other than Section 1145 of the Bankruptcy Code, (i) the Company shall be deemed to make all the representations and warranties to Moelis that the Company has made to purchasers of any security, (ii) the Company shall deliver to Moelis an opinion of Company counsel to the effect that the Capital Transaction was exempt from registration under the Securities Act and which shall also include all opinions delivered to the purchasers of any security, (iii) the Company shall deliver to Moelis from each purchaser of securities for Moelis' express benefit a big boy representation in the form of **Annex C** and make the representation and covenant set forth in **Annex C**, and (iv) the Company will also deliver to Moelis copies of such agreements, opinions, certificates and other documents delivered at the closing as Moelis may reasonably request.

5. The Company will not disclose, summarize or refer to any of Moelis' advice or the terms of this agreement publicly or to any third party without the prior written consent of Moelis. In the event disclosure is required by subpoena or court order, the Company will provide Moelis with reasonable advance notice and permit Moelis to comment on the form and content of the disclosure. Moelis consents to the inclusion of a summary of its valuation in the disclosure statement for a Plan, if required to be included in such disclosure statement; provided that Moelis and its counsel have approved any reference to or summary or description of the valuation in advance. Moelis may, at our option and expense after announcement of any Transaction, announce or disclose publicly such transaction and Moelis' role in it for marketing purposes, including, without limitation, on Moelis' website, stating that Moelis has acted as financial advisor and/or investment banker, as applicable, to the Company in connection with any Transaction. If requested by Moelis, the Company shall include a mutually acceptable reference to Moelis in any public announcement of a Restructuring, a Sale Transaction, or a Capital Transaction. Following a public announcement or public confirmation or Company public filing relating to a potential Transaction, Moelis may also announce or disclose publicly its role in the potential Transaction.

6. Moelis is an independent contractor with the contractual obligations described herein owing solely to the Company. The parties agree that Moelis is not acting as an agent or fiduciary of the Company or any other party, and the Company agrees to not make any claims against Moelis based on an agency or fiduciary relationship. The Company and Moelis agree to the indemnity and other provisions set forth in **Annex B**. Other than the Indemnified Persons, there are no third party beneficiaries of this agreement. The obligations hereunder of the entities comprising the Company shall be joint and several.

7. Either the Company or Moelis may terminate this agreement upon written notice thereof to the other party. In the event of any termination, (i) Moelis will continue to be entitled to the fees and expenses

MOELIS & COMPANY

that became payable hereunder prior to termination or expiration and (ii) **Annex B**, the last paragraph of Section 2(a) and Sections 3 through 9 shall remain in full force and effect after the completion, termination or expiration of this agreement.

8. Moelis is an independent investment bank which is engaged in a range of investment banking activities. Certain affiliates of Moelis are engaged in asset management and other activities for their own account and otherwise. Moelis and its affiliates may have interests that differ from the interests of the Company. Moelis and its affiliates have no duty to disclose to any party, or use for the benefit of any party, any information acquired in the course of providing services to any other party, engaging in any transaction or carrying on any other businesses. Moelis' employees, officers, partners and affiliates may at any time own the Company's securities or those of any other entity involved in any transaction contemplated by this agreement. Moelis recognizes its obligations under applicable securities laws in connection with the purchase and sale of such securities.

Moelis is required to obtain, verify, and record information that identifies each party with whom it does business in a manner that satisfies the requirements of and in accordance with the USA Patriot Act. Upon request, each of the parties hereto will provide Moelis with information necessary to verify such party's identity for purposes of the USA Patriot Act.

9. This agreement and any disputes or claims that may arise out of this agreement shall be governed by and construed in accordance with the internal laws of the State of New York, and this agreement embodies the entire agreement and supersedes any prior written or oral agreement relating to the subject matter hereof, and may only be amended or waived in writing signed by both the Company and Moelis. If any part of this agreement is judicially determined to be unenforceable, it shall be interpreted to the fullest extent enforceable so as to give the closest meaning to its intent, and the remainder of this agreement shall remain in full force and effect. Any proceeding arising out of this agreement shall be heard exclusively in a New York state or federal court sitting in the city and county of New York, to whose jurisdiction and forum Moelis and the Company irrevocably submit. Notwithstanding the foregoing, if the Company becomes a debtor under the Bankruptcy Code any dispute or claim relating to or arising out of this agreement shall be heard and determined by the Bankruptcy Court during the pendency of a Bankruptcy Case. The Company also irrevocably consents to the service of process in any such proceeding by mail to the Company's address set forth above. This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. This agreement shall be binding upon the Company and Moelis and its and our respective successors and permitted assigns. MOELIS AND THE COMPANY (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS CREDITORS AND SECURITY HOLDERS) WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY PROCEEDING ARISING OUT OF THIS AGREEMENT.

(Signature page follows)

MOELIS & COMPANY

Moelis is delighted to accept this engagement and looks forward to working with the Company. Please sign and return the enclosed duplicate of this agreement. The individuals signing this agreement each represent that he or she is authorized to execute and deliver it on behalf of the entity whose name appears above his or her signature.

Very truly yours,

MOELIS & COMPANY LLC

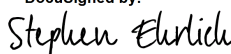

By: 

Name: Jared Dermont

Title: Managing Director

Agreed to as of the date first written above:

VOYAGER DIGITAL HOLDINGS, INC. (ON BEHALF OF ITSELF AND ITS AFFILIATES AND
DIRECT AND INDIRECT SUBSIDIARIES LISTED ON ANNEX A)

DocuSigned by:

By: 

3724C7F0863B426...
Name: Stephen Ehrlich

Title: Chief Executive Officer

MOELIS & COMPANY

ANNEX A

Voyager Digital Ltd.
Voyager Digital, LLC
LGO SAS
Voyager Europe
Voyager Digital Brokerage Ltd.
Voyager Digital Brokerage Canada, Ltd.
HTC Trading, Inc.
Voyager Digital, LLC
Voyager IP, LLC
Voyager Digital NY LLC
Voyager Digital Ventures LLLC
VYGR Holding, LLC
VYGR Digital Securities, LLC
VYGR Management LLC
Voyager European Holdings ApS
Coinify ApS
Coinify Financial Services ApS
Coinfy Technologies ApS
Coinify Ltd.
Coinify Global Solutions Inc.
Coinify Payments OU

MOELIS & COMPANY

ANNEX B

In the event that Moelis or its affiliates or any of Moelis' or Moelis' affiliates' respective current or former directors, officers, partners, managers, members, agents, representatives or employees (including any person controlling Moelis or any of its affiliates) (collectively, the "Indemnified Persons") becomes involved in any capacity in any actual or threatened action, claim, suit, investigation or proceeding (an "Action") arising out of, related to or in connection with this agreement or any matter referred to herein (including, without limitation, related matters prior to the date of this agreement), the Company will reimburse such Indemnified Person for the reasonable and documented out-of-pocket costs and expenses (including counsel fees) of investigating, preparing for and responding to such Action or enforcing this agreement, as they are incurred. The Company will also indemnify and hold harmless any Indemnified Person from and against, and the Company each agrees that no Indemnified Person shall have any liability to the Company or its affiliates, or their respective owners, directors, officers, employees, security holders or creditors for, any losses, claims, damages, expenses or liabilities (collectively, "Losses") (A)(i) related to the Company's actions or omissions (or the actions or omissions of the Company's officers, directors, employees and agents other than Moelis) in connection with the agreement or the matters referred to herein), or (ii) related to or arising out of oral or written statements or omissions made or information provided by the Company or its agents in connection with the agreement or the matters referred to herein (including, without limitation, the Information Memo and any other information provided by or on behalf of the Company to any purchaser or seller of a security in any transaction contemplated by the agreement), or (B) otherwise arising out of, related to or in connection with this agreement or Moelis' performance hereunder or any other services or advice the Company requests any Indemnified Person to provide (in each case, including prior to the date of this agreement), except that this clause (B) shall not apply to Losses to the extent such Losses are finally judicially determined to have resulted primarily from the bad faith or gross negligence of such Indemnified Person.

If such indemnification or limitation on liability for any reason is not available or is insufficient to hold an Indemnified Person harmless, the Company agrees to contribute to the Losses in such proportion as is appropriate to reflect the relative benefits received (or anticipated to be received) by the Company, on the one hand, and by Moelis, on the other hand, with respect to this agreement or, if such allocation is judicially determined to be unavailable, in such proportion as is appropriate to reflect the relative benefits and relative fault of the Company, on the one hand, and of Moelis, on the other hand, and any other equitable considerations; *provided, however*, that, to the extent permitted by applicable law, in no event shall the Indemnified Persons be responsible for amounts that exceed the fees actually received by Moelis from the Company in connection with this agreement. Relative benefits to the Company, on the one hand, and Moelis, on the other hand, with respect to this agreement shall be deemed to be in the same proportion as (i) the total value paid or proposed to be paid or received or proposed to be received by the Company or its security holders, as the case may be, pursuant to the transaction(s), whether or not consummated, contemplated by this agreement bears to (ii) the fees actually received by Moelis in connection with this agreement.

The Company will not without the prior written consent of Moelis (not to be unreasonably withheld), settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate (a "Settlement") any Action or participate in or facilitate a Settlement of any Action in respect of which indemnification is or may be sought hereunder (whether or not an Indemnified Person is a party thereto) unless such Settlement includes a release of each Indemnified Person from any Losses arising out of such Action. The Company will not permit any such Settlement to include a statement as to, or an admission of, fault or culpability by or on behalf of an Indemnified Person without such Indemnified Person's prior written consent. No

MOELIS & COMPANY

Indemnified Person seeking indemnification, reimbursement or contribution under this agreement will, without the Company's prior written consent (not to be unreasonably withheld), agree to the Settlement of any Action. The Company's obligations set forth herein shall be in addition to any rights that any Indemnified Person may have at law or otherwise.

Prior to effecting any proposed sale, exchange, dividend or other distribution or liquidation of all or substantially all of its assets or any significant recapitalization or reclassification of its outstanding securities that does not explicitly or by operation of law provide for the assumption of the obligations of the Company set forth herein, the Company will notify Moelis in writing of its arrangements for the Company's obligations set forth herein to be assumed by another creditworthy party (for example through insurance, surety bonds or the creation of an escrow) upon terms and conditions reasonably satisfactory to the Company and Moelis.

MOELIS & COMPANY

ANNEX C**Big Boy Representation**

The undersigned Purchaser represents and warrants that (i) the Purchaser is a sophisticated institutional accredited investor with extensive expertise and experience in financial and business matters and in evaluating private companies and purchasing and selling their securities; (ii) the Purchaser has conducted and relied upon its own due diligence investigation of the Company and its own in-depth analysis of the merits and risks of the Capital Transaction in making its investment decision and has not relied upon any information provided by Moelis or any investigation of the Company conducted by Moelis; and (iii) the Purchaser agrees that Moelis shall have no liability to the Purchaser in connection with its purchase of the Capital Transaction.

Bad Actor Representation and Covenant

The Company represents and warrants to Moelis that, as of the date of this engagement letter, neither the Company nor any of its respective managing members, general partners, directors and executive officers, any other officers participating in the Capital Transaction, any 20% beneficial owners of the Company, calculated on the basis of total voting power, promoters connected to the Company, nor any persons compensated for soliciting investors, including their directors, general partners and managing members (each, a "Covered Person"), have been convicted of or are otherwise subject to any of the disqualifying events listed in Rule 506(d) of Regulation D under the Securities Act and as of the closing date of any Capital Transaction, neither the Company nor any Covered Person will have been convicted of or otherwise subject to any of the disqualifying events listed in Rule 506(d) of Regulation D under the Securities Act. Furthermore, the Company agrees to notify Moelis immediately if at any time it becomes aware that it or any of its Covered Persons have been convicted of or are otherwise subject to any of the disqualifying events listed in Rule 506(d) of Regulation D under the Securities Act.

MOELIS & COMPANY

SCHEDULE 1

Wire Instructions:

Beneficiary Account: Moelis & Company LLC

Routing Number: 122016066

Account Number: 412956230

International SWIFT Code: CINAUS6L

City National Bank

525 S. Flower Street

24th Floor

Los Angeles, CA 90071

This is Exhibit “D” referred to in the Affidavit of Raajan Aery sworn by Raajan Aery at the City of Toronto, in the Province of Ontario, before me on September 28, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

DANIEL RICHER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
)	
VOYAGER DIGITAL HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 22-10943 (MEW)
)	
Debtors.)	(Jointly Administered)
)	

**ORDER (I) APPROVING THE DEBTORS' KEY
EMPLOYEE RETENTION PLAN AND (II) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order"), (a) approving and authorizing the Debtors' proposed key employee retention plan (the "KERP"), (b) authorizing the Debtors to make payments to certain non-insider employees under the KERP, and (c) granting certain related relief, all as more fully set forth in the Motion, the Georgeson Declaration, the Ehrlich Declaration, and the Supplemental Ehrlich Declaration; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, entered February 1, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Voyager Digital Holdings, Inc. (7687); Voyager Digital, Ltd. (7224); and Voyager Digital, LLC (8013). The location of the Debtors' principal place of business is 33 Irving Place, Suite 3060, New York, NY 10003.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion or the *Reply in Support of Debtors' Motion for Entry of an Order (I) Approving the Debtors' Key Employee Retention Plan and (II) Granting Related Relief* [Docket No. 330], as applicable.

the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Pursuant to sections 503(c) and 363(b)(1) of the Bankruptcy Code, the KERP is hereby approved.
3. The Debtors are authorized, but not directed, to implement the KERP and make the payments contemplated thereunder at the times specified in the Motion.
4. The Debtors may add a replacement participant(s) to the KERP upon the resignation or the termination for cause of any Participant.
5. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.
6. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.
7. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York
Dated: August 25, 2022

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

This is Exhibit “E” referred to in the Affidavit of Raajan Aery sworn by Raajan Aery at the City of Toronto, in the Province of Ontario, before me on September 28, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Daniel Richer

6A252F5966B04F8...

Commissioner for Taking Affidavits (or as may be)

DANIEL RICHER

David M. Posner
Kelly E. Moynihan
**KILPATRICK TOWNSEND &
STOCKTON LLP**
The Grace Building
1114 Avenue of the Americas
New York, NY 10036
Telephone: (212) 775-8700
Facsimile: (212) 775-8800
Email: dposner@kilpatricktownsend.com
kmoynihan@kilpatricktownsend.com

Paul M. Rosenblatt, Esq.
**KILPATRICK TOWNSEND &
STOCKTON LLP**
1100 Peachtree Street NE, Suite 2800
Atlanta, GA 30309
Telephone: (404) 815-6500
Facsimile: (404) 815-6555
Email: prosenblatt@kilpatricktownsend.com

Counsel to Ad Hoc Group of Equity Interest Holders

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	
In re:	:	Chapter 11
	:	
VOYAGER DIGITAL HOLDINGS, INC., et al., ¹	:	Case No. 22-10943 (MEW)
	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----	:	

VERIFIED STATEMENT PURSUANT TO BANKRUPTCY RULE 2019

In connection with the above-captioned chapter 11 cases (the “Chapter 11 Cases”), Kilpatrick Townsend & Stockton LLP (“Kilpatrick Townsend”) hereby submits this verified statement (the “Statement”) pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rule 2019”) with respect to the representation of a group of equity interest holders (the “Ad Hoc Group of Equity Interest Holders” or the “AHG”) of Voyager Digital Ltd. (“VDL”), a debtor and debtor-in-possession in these Chapter 11 Cases.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Voyager Digital Holdings, Inc. (7687); Voyager Digital Ltd. (7224); and Voyager Digital, LLC (8013). The location of the Debtors’ principal place of business is 33 Irving Place, Suite 3060, New York, NY 10003.

1. Attached hereto as **Exhibit A** is a list of the names and addresses² of each member of the Ad Hoc Group of Equity Interest Holders and each member's disclosable economic interests in accordance with Bankruptcy Rule 2019, in the amount set forth in **Exhibit A** (accurate as of September 19, 2022 and reflects the approximate number of VDL shares held by each member as of July 5, 2022). The information contained in **Exhibit A** is based upon information provided by the members of the AHG and is subject to change.

2. On or about September 19, 2022, AHG retained Kilpatrick Townsend and Dundon Advisers, LLC in connection with the above-captioned Chapter 11 Cases. Should additional members join the AHG, Kilpatrick Townsend will file additional Statements as necessary to comply with Bankruptcy Rule 2019.

3. Each member of the AHG has consented to Kilpatrick Townsend's representation of the group. Kilpatrick Townsend does not represent any member of the AHG in its individual capacity.

4. Furthermore, upon information and belief formed after due inquiry, Kilpatrick Townsend has no independent claims against or equity interests in VDL or its affiliated debtor entities.

5. The information contained in this Statement and/or **Exhibit A** attached hereto is intended only to comply with Bankruptcy Rule 2019 and is not intended for any other use or purpose, including, without limitation, any restriction or limitation on the rights, abilities, or arguments of the AHG. Nothing in this Statement or **Exhibit A** hereto, should be construed as (i) a limitation upon, or waiver of, any member's right to assert, file, and/or amend claims, if any, in accordance with applicable law and any orders entered in these Chapter 11 Cases, or (ii) an

² To protect the personal information of each member, the address listed for each member is Kilpatrick Townsend's business address (c/o Kilpatrick Townsend & Stockton LLP, Attn: David M. Posner, The Grace Building, 1114 Avenue of the Americas, New York, NY 10036) and the email address for each member is listed as dposner@kilpatricktownsend.com.

admission with respect to any fact or legal theory. Kilpatrick Townsend reserves the right to amend or supplement this Statement on behalf of the AHG.

6. The undersigned verify that the foregoing is true and correct to the best of their knowledge.

Dated: September 19, 2022
New York, NY

AD HOC GROUP OF EQUITY INTEREST HOLDERS
By its Counsel,

KILPATRICK TOWNSEND & STOCKTON LLP

By: /s/ David S. Posner

David M. Posner
Kelly E. Moynihan
The Grace Building
1114 Avenue of the Americas
New York, NY 10036
Telephone: (212) 775-8700
Facsimile: (212) 775-8800
Email: dposner@kilpatricktownsend.com
kmoynihan@kilpatricktownsend.com

-and-

KILPATRICK TOWNSEND & STOCKTON LLP

Paul M. Rosenblatt, Esq.
1100 Peachtree Street NE, Suite 2800
Atlanta, GA 30309
Telephone: (404) 815-6500
Facsimile: (404) 815-6555
Email: prosenblatt@kilpatricktownsend.com

EXHIBIT A

**Names, Addresses, and Nature of Disclosable Economic
Interests of AHG Members**

NAME³	APPROXIMATE NUMBER OF VDL SHARES⁴	OTHER DISCLOSABLE ECONOMIC INTERESTS
STEPHEN TALLEY	538,809	Certain interests arising from status as a proposed class member in the class action, <i>De Sousa v. Voyager Digital Ltd. et al.</i> , Ontario Superior Court of Justice File No. CV-22-683699-00CP.
RYAN VICE	148,249	Certain interests arising from status as a proposed class member in the class action, <i>De Sousa v. Voyager Digital Ltd. et al.</i> , Ontario Superior Court of Justice File No. CV-22-683699-00CP.
FRANCINE DE SOUSA	13,000	Certain interests arising from status as lead plaintiff in the class action, <i>De Sousa v. Voyager Digital Ltd. et al.</i> , Ontario Superior Court of Justice File No. CV-22-683699-00CP.
DHESAKA JAYASURIYA	1,983	Certain interests arising from status as a proposed class member in the class action, <i>De Sousa v. Voyager Digital Ltd. et al.</i> , Ontario Superior Court of Justice File No. CV-22-683699-00CP.
MICHEL LASSONDE	3,000	Certain interests arising from status as a proposed class member in the class action, <i>De Sousa v. Voyager Digital Ltd. et al.</i> , Ontario Superior Court of Justice File No. CV-22-683699-00CP.

³ The addresses and contact information for all members of the Ad Hoc Group of Equity Interest Holders are provided as c/o Kilpatrick Townsend & Stockton LLP, Attn: David M. Posner, The Grace Building, 1114 Avenue of the Americas, New York, NY 10036 and the email address for each member is listed as dposner@kilpatricktownsend.com.

⁴ To the best of Kilpatrick Townsend's knowledge, the information provided in this column is accurate as of September 19, 2022 and reflects the approximate number of VDL shares held by each member as of July 5, 2022.

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2022, I caused a true and exact copy of the foregoing
VERIFIED STATEMENT PURSUANT TO BANKRUPTCY RULE 2019 to be filed
electronically with the Clerk of the Court using the CM/ECF system which in turn will send
notification of such filing to all interested parties of record.

/s/ David M. Posner

David M. Posner

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF VOYAGER DIGITAL LTD.

APPLICATION OF VOYAGER DIGITAL LTD. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-22-00683820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**Proceeding commenced at
Toronto**

**AFFIDAVIT OF RAAJAN AERY
(SWORN SEPTEMBER 28, 2022)**

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF VOYAGER DIGITAL LTD.

APPLICATION OF VOYAGER DIGITAL LTD. UNDER
SECTION 46 OF THE *COMPANIES' CREDITORS
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Court File No. CV-22-00683820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**Proceeding commenced at
Toronto**

**MOTION RECORD
(Recognition of Foreign Orders)**

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