

Court File No. CV-24-00720035-00CL

**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 KIDKRAFT, INC., SOLOWAVE DESIGN
HOLDINGS LIMITED, SOLOWAVE DESIGN INC., SOLOWAVE
INTERNATIONAL INC. AND SOLOWAVE DESIGN LP

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE
COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AMENDED

Applicant

**MOTION RECORD OF THE FOREIGN REPRESENTATIVE
(Recognition Order (Bar Dates Order, Second Interim DIP Order, and
Final Customer Programs Order, and Related Relief))
(Returnable June 19, 2024)**

June 17, 2024

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TAB 1

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AMENDED

Applicant

**NOTICE OF MOTION
(Recognition Order (Bar Dates Order, Second Interim DIP Order, and
Final Customer Programs Order, and Related Relief))
(Returnable June 19, 2024)**

The Applicant, KidKraft, Inc., in its capacity as foreign representative (the “**Foreign Representative**”) of itself and four other debtors in possession, Solowave Design Holdings Limited, Solowave International Inc., Solowave Design Inc., and Solowave Design LP (the “**Canadian Debtors**”), will make a motion to the Court on Wednesday June 19, 2024, at 10:30 a.m. E.T., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard

- In writing under subrule 37.12.1 (1) because it is ;
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

<https://ca01web.zoom.us/j/61804264297?pwd=MEpzRUtlUVB0UGc4eStsVGNtYmkxUT09>

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THE MOTION IS FOR:

1. An order, substantially in the form of the draft order included in the Motion Record, *inter alia*:
 - (a) recognizing and enforcing the Bar Dates Order, the Second Interim DIP Order and the Final Customer Programs Order (each as defined below) entered by the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “**U.S. Court**”), pursuant to section 49 of the Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36, as amended (the “**CCAA**”);
 - (b) amending the Supplemental Order (as defined below) to account for the Second Interim DIP Order; and
 - (c) such further and other relief as counsel may request and this Honourable Court may grant.

THE GROUNDS FOR THE MOTION ARE:¹

The Chapter 11 Cases and the Canadian Proceedings

2. On May 10, 2024, each of KidKraft, the Canadian Debtors and six other debtors and debtors in possession (collectively, the “**Chapter 11 Debtors**”)² filed voluntary petitions for relief

¹ Capitalized terms used herein and not otherwise defined have the meaning given to them in the Third Affidavit of Geoffrey Walker, sworn June 17, 2024.

² The Chapter 11 Debtors are KidKraft, Inc., KidKraft Europe, LLC, KidKraft Intermediate Holdings, LLC, KidKraft International Holdings, Inc., KidKraft Partners, LLC, KidKraft International IP Holdings, LLC, Solowave Design Corp., Solowave Design Holdings Limited, Solowave Design Inc., Solowave Design LP, and Solowave International Inc.

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(together, the “**Petitions**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code with the U.S. Court (the “**Chapter 11 Cases**”).

3. Contemporaneously therewith, the Chapter 11 Debtors began filing certain first day motions with the U.S. Court, and the U.S. Court entered interim and/or final orders in respect thereof (collectively, the “**First Day Orders**”), including the following:

- (a) *Interim Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief* (the “**Interim Customer Programs Order**”); and
- (b) *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens And Providing Superpriority Administrative Expense Status, (IV), Granting Adequate Protection to the Prepetition Secured Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the “**First Interim DIP Order**”).

4. By order dated May 10, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Ontario Court**”) granted an interim stay of proceeding in respect of KidKraft and the Canadian Debtors, and their respective directors and officers.

5. Subsequently, by order dated May 17, 2024, the Ontario Court recognized the Chapter 11 Cases as “foreign main proceedings”, recognized the appointment of the Foreign Representative, and granted related stays of proceeding in favour of the Chapter 11 Debtors. By further order dated May 17, 2024, the Ontario Court recognized the First Day Orders (the “**Supplemental Order**”). In addition, the Supplemental Order appointed KSV Restructuring Inc. as the information officer in these CCAA Part IV proceedings (in such capacity, the “**Information Officer**”), granted an Administration Charge in the amount of CAD \$750,000.00 in favour of Canadian counsel to the

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Chapter 11 Debtors, the Information Officer and counsel for the Information Officer, a D&O Charge in the amount of CAD\$100,000, and a DIP Charge for advances under the DIP Facility.

6. On May 23, 2024, the Office of the United States Trustee for the Northern District of Texas appointed an official unsecured creditors' committee (the "**Committee**").

7. Following the Committee's appointment, the Chapter 11 Debtors agreed to adjourn the hearing of the motions seeking final versions of the First Day Orders, which required the Chapter 11 Debtors to obtain additional funding under the DIP Facility prior to the entry of a final order, and the Second Interim DIP Order authorizing same.

8. On June 10, 2024, the U.S. Court entered the following final orders, as no objections had been filed in respect thereof:

- (a) *Final Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief* (the "**Final Customer Programs Order**"); and
- (b) *Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof* (the "**Bar Dates Order**").

9. On June 11, 2024, the U.S. Court entered the following interim order:

- (a) *Second Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001, and 9014 (I) Authorizing Debtors and Debtors in Possession to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "**Second Interim DIP Order**").

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Recognition of the Final Customer Programs Order is appropriate

10. The Final Customer Programs Order is a final version of Interim Customer Programs Order previously recognized by the Ontario Court in the Supplemental Order.

11. Recognition of the Final Customer Programs Order is necessary for the protection of the Chapter 11 Debtors' property, the efficient administration of the Chapter 11 Cases and the interests of the Chapter 11 Debtors' creditors.

Recognition of the Second Interim DIP Order is appropriate

12. The First Interim DIP Order, which was recognized by the Ontario Court pursuant to the Supplemental Order, among other things, authorized: (a) KidKraft as borrower to receive senior secured superpriority priming debtor-in-possession loans (each, a "**DIP Loan**" and in the aggregate, the "**DIP Loans**") from the Prepetition and DIP Lender on the terms set forth in the DIP Term Sheet and in accordance with an approved budget (included as Exhibit "B" to the First Interim DIP Order); and (b) the Chapter 11 Debtors to use, on a consensual basis, the Cash Collateral of Gordon Brothers under the Prepetition Credit Agreement.

13. The Second Interim DIP Order is a further interim version of the First Interim DIP Order, with certain important differences from the First Interim DIP Order, including, most notably:

- (a) increasing the interim commitment under the DIP Facility from \$4.0 million to \$5.5 million, available upon entry of the Second Interim DIP Order (the "**Interim DIP Commitment**");
- (b) decreasing the incremental final commitment under the DIP Facility from \$6.5 million to \$5.0 million, available upon entry of a final order (as defined below) (the "**Final DIP Commitment**"); and

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- (c) providing a deadline for the Committee to serve and file written objections to the entry of a final of June 11, 2024.

14. Accordingly, following the entry of the Second Interim DIP Order, the DIP Facility consists of an aggregate principal amount of:

- (a) \$10.5 million, consisting of the Interim DIP Commitment and the Final DIP Commitment;
- (b) \$23.3 million of Prepetition Obligations, which will be deemed to have been advanced and shall convert into DIP Loans on a dollar-for dollar cashless basis upon entry of a final order; and
- (c) use of the Cash Collateral from the time of the entry of the First Interim DIP Order until the Carve-Out Termination Date (as such term is defined in the Second Interim DIP Order).

15. Recognition of the Second Interim DIP Order will permit continued operations and consistency with the Chapter 11 Cases, and is necessary for the protection of the Chapter 11 Debtors' property and the interests of their creditors.

Recognition of the Bar Dates Order is appropriate

16. The Bar Dates Order provides, among other things, that:

- (a) the general bar date to file proofs of claim for prepetition claims is June 28, 2024;
 - (b) the bar date for governmental units to file proofs of claim is November 6, 2024;
- and
- (c) robust notice procedures be implemented.

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17. The bar dates and procedures set out in the Bar Dates Order are reasonable and appropriate in the circumstances.
18. Recognition of the Bar Dates Order is necessary for the protection of the Chapter 11 Debtors' property and in the interest of their creditors.
19. Recognition of the Bar Dates Order will ensure that the deadline for filing proofs of claim is enforceable against all creditors of the Chapter 11 Debtors in Canada, so that the Chapter 11 Debtors can have an accurate understanding of the claims against their estates.
20. The Chapter 11 Debtors have complied with the notice requirements in the Bar Dates Order.

General

- (a) The CCAA, including Part IV.
- (b) Such further and other grounds as counsel may advise.

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

- (a) the Third Affidavit of Geoffrey Walker, sworn June 17, 2024;
- (b) the First Report of the Information Officer, dated June 17, 2024; and
- (c) such further and other evidence as counsel may advise and this Honourable Court may permit.

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June 17, 2024

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INC. AND SOLOWAVE DESIGN LP**

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(Recognition Order (Bar Dates Order, etc.))
(Returnable June 19, 2024)

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TAB 2

Court File No. CV-24-00720035-00CL

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AMENDED

Applicant

**THIRD AFFIDAVIT OF GEOFFREY WALKER
(Recognition Order (Bar Dates Order, Second Interim DIP Order, and
Final Customer Programs Order))**

(Sworn June 17, 2024)

I, Geoffrey Walker, of the City of Dallas, in the State of Texas, MAKE OATH AND SAY:

1. I am the Chief Executive Officer and President of KidKraft, Inc. (“**KidKraft**”, and together with its debtor and non-debtor affiliates, the “**Company**”). I joined the Company in 2019 and have served in my current role since that time.

2. As Chief Executive Officer and President of KidKraft, I am familiar with, and have personal knowledge regarding, the Chapter 11 Debtors’ (defined below) businesses, day-to-day operations, financial affairs, and books and records, including those of Solowave Design Holdings Limited, Solowave International Inc. and Solowave Design Inc. (collectively, the “**Canadian Corporate Debtors**”), and Solowave Design LP (together with the Canadian Corporate Debtors, the “**Canadian Debtors**”). As such, I have personal knowledge of the matters deposed herein. Where I have relied on other sources of information, I have so stated and believe them to be true.

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In preparing this affidavit (the “**Third Affidavit**”), I have also consulted with the Company’s senior management team, and financial and legal advisors. The Company does not waive or intend to waive any applicable privilege by any statement in this Third Affidavit.

3. KidKraft, the Canadian Debtors, and six other debtors and debtors in possession (collectively, the “**Chapter 11 Debtors**”) recently filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “**U.S. Court**”). The cases commenced by the Chapter 11 Debtors in the U.S. Court are referred to herein as the “**Chapter 11 Cases**”.

4. I swear this Third Affidavit in support of a motion by KidKraft in its capacity as the foreign representative of the Chapter 11 Debtors (in such capacity, the “**Foreign Representative**”), for an order (the “**Third Recognition Order**”), among other things:

- (a) recognizing and enforcing the Bar Dates Order, the Second Interim DIP Order and the Final Customer Programs Order (each as defined below) entered by the U.S. Court, pursuant to section 49 of the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the “**CCAA**”); and
- (b) such further and other relief as counsel may request and this Honourable Court may grant.

5. I previously swore an initial affidavit on May 10, 2024 (the “**Initial Affidavit**”) and a second affidavit on May 15, 2024 (the “**Second Affidavit**”) in support of the Foreign Representative’s application for the Interim Stay Order, Initial Recognition Order, and Supplemental Order (all defined below). Copies of the Initial Affidavit and the Second Affidavit,

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without exhibits, are attached hereto as **Exhibits “A”** and **“B”**, respectively. Capitalized terms used and not otherwise defined in this Third Affidavit have the meanings given to them in the Initial Affidavit and Second Affidavit. Unless otherwise indicated, dollar amounts referenced in this Third Affidavit are references to United States Dollars.

A. Background

6. On May 10, 2024 (the **“Petition Date”**), each of the Chapter 11 Debtors filed voluntary filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code with the U.S. Court. The Chapter 11 Cases have been assigned to the Honourable Judge Michelle V. Larson.

7. On May 10, 2024, the Chapter 11 Debtors filed several first day motions and applications with the U.S. Court (collectively, the **“First Day Motions”**).

8. The U.S. Court entered the following interim and/or final orders (the **“First Day Orders”**):

- (a) *Order (I) Authorizing KidKraft, Inc. to Act as Foreign Representative and (II) Granting Related Relief;*
- (b) *Order Directing Joint Administration of the Debtors’ Chapter 11 Cases;*
- (c) *Order Authorizing the Employment and Retention of Stretto, Inc. as Claims, Noticing, and Solicitation Agent (the **“Claims Agent Retention Order”**);*
- (d) *Interim Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief (the **“Interim Customer Programs Order”**);*
- (e) *Order (I) Authorizing the Debtors to (A) Continue Their Prepetition Insurance Coverage and Satisfy Prepetition Obligations Related Thereto; (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Coverage on a Postpetition Basis in the Ordinary Course; and (C) Continue Their Prepetition Customs Bond Program and Satisfy Prepetition Obligations Related Thereto; (II) Modifying the Automatic Stay Solely With Respect to Workers’ Compensation Claims; and (III) Granting Related Relief;*

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- (f) *Order (I) Approving the Debtors' Proposed Adequate Assurance Payments for Future Utility Services; (II) Prohibiting Utility Companies From Altering, Discontinuing, or Refusing Services; (III) Approving the Debtors' Proposed Procedures for Resolving Additional Adequate Assurance Requests; and (IV) Granting Related Relief;*
- (g) *Order (I) Authorizing the Debtors to Pay Certain Taxes and Fees and (II) Granting Related Relief;*
- (h) *Interim Order (I) Authorizing the Debtors to Pay (A) Critical Vendors, (B) Lien Claimants, and (C) 503(B)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief;*
- (i) *Interim Order (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts, (B) Continue Using Existing Checks and Business Forms, (C) Maintain Their Corporate Card Program, and (D) Continue Intercompany Transactions, and (II) Granting Related Relief;*
- (j) *Order (I) Authorizing the Debtors to (A) Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief; and*
- (k) *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens And Providing Superpriority Administrative Expense Status, (IV), Granting Adequate Protection to the Prepetition Secured Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the "**First Interim DIP Order**").*

9. By order dated May 10, 2024, the Ontario Superior Court of Justice (Commercial List) (the "**Ontario Court**") granted an interim stay of proceeding in respect of KidKraft and the Canadian Debtors, and their respective directors and officers (the "**Interim Stay Order**").

10. Subsequently, by order dated May 17, 2024, the Ontario Court recognized the Chapter 11 Cases as "foreign main proceedings", recognized the appointment of the Foreign Representative, and granted related stays of proceeding in favour of the Chapter 11 Debtors (the "**Initial**

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Recognition Order”). By further order dated May 17, 2024, the Ontario Court recognized the First Day Orders (the “**Supplemental Order**”). In addition, the Supplemental Order appointed KSV Restructuring Inc. as the information officer in these CCAA Part IV proceedings (in such capacity, the “**Information Officer**”), granted an Administration Charge in the amount of CAD \$750,000.00 in favour of Canadian counsel to the Chapter 11 Debtors, the Information Officer and counsel for the Information Officer, a D&O Charge in the amount of CAD\$100,000, and a DIP Charge for advances under the DIP Facility (defined below). Copies of the Initial Recognition Order, the Supplemental Order and Justice Cavanagh’s endorsement in respect of same are attached as **Exhibits “C”, “D” and “E”**, respectively.

11. Background information with respect to the Chapter 11 Debtors, including KidKraft and the Canadian Debtors, and the reasons for the commencement of the Chapter 11 Cases, are set out in the Initial Affidavit, the Second Affidavit, and the declaration I submitted on May 10, 2024 to the U.S. Court in support of the First Day Motions.

B. Update on Chapter 11 Cases

12. Since I swore the Initial Affidavit and Second Affidavit, the Chapter 11 Debtors continue to advance their restructuring objectives and continue to operate in the ordinary course as contemplated in the Chapter 11 Cases. During this period, the Chapter 11 Debtors have engaged with their vendors, creditors, employees, customers, landlords and other stakeholders to stabilize their post-filing operations.

13. On May 23, 2024, the Office of the United States Trustee for the Northern District of Texas (the “**U.S. Trustee**”) appointed an official unsecured creditors’ committee (the “**Committee**”), consisting of:

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- (a) Fiona Yao of Dongguan Shing Fai Furniture Co. Ltd. (a Chinese supplier to the Chapter 11 Debtors and an unsecured creditor of the Canadian Debtors); and
- (b) Anna Liu of Kong Richs Furniture Vietnam Co. Ltd (a Vietnamese supplier to the Chapter 11 Debtors).

14. Following the Committee's appointment, the Chapter 11 Debtors agreed to adjourn the hearing of the motions seeking the Second Day Orders (as defined below) from June 5 to June 13, 2024 (the "**Second Day Hearing**"). In order to adjourn the Second Day Hearing and consistent with the form of budget attached to the First Interim DIP Order, the Chapter 11 Debtors required additional funding under the DIP Facility (as defined below) and sought and obtained the Second Interim DIP Order (as defined below), discussed in greater detail below.

15. On June 10, 2024, the Chapter 11 Debtors filed their (a) schedules of assets and liabilities, (b) statements of financial affairs, (c) schedules of current income and expenditures, and (d) statements of executory contracts and unexpired leases (collectively, the "**Schedules**").

16. Also on June 10, 2024, the U.S. Court entered the following final orders, as no objections had been filed in respect thereof:

- (a) *Final Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief* (the "**Final Customer Programs Order**"); and
- (b) *Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof* (the "**Bar Dates Order**").

17. On June 11, 2024, the U.S. Court entered the following interim order:

- (a) *Second Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001, and 9014 (I) Authorizing Debtors and Debtors*

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*in Possession to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “**Second Interim DIP Order**”).*

18. Stretto, Inc. (“**Stretto**”), which was authorized to act as the Chapter 11 Debtors’ claims, noticing and solicitation agent in the Chapter 11 Cases by the Claims Agent Retention Order (including in respect of Canadian creditors), posted on its website for the Chapter 11 Cases copies of the Final Customer Programs Order and the Bar Dates Order on June 10, 2024, and the Second Interim DIP Order on June 11, 2024. Copies of the Final Customer Programs Order, the Bar Dates Order and the Second Interim DIP Order are attached as **Exhibits “F”, “G” and “H”**, respectively.

19. In light of continued discussions between the Chapter 11 Debtors, the Committee, and certain other key stakeholders, on June 12, 2024, the Chapter 11 Debtors agreed to adjourn the Second Day Hearing from June 13 to June 17.

20. Following further discussions and a potential global resolution, on June 17, 2024, the Chapter 11 Debtors further adjourned the Second Day Hearing to June 21.

C. The Third Recognition Order

21. Pursuant to the proposed Third Recognition Order, the Foreign Representative seeks recognition by the Ontario Court of the Bar Dates Order, the Second Interim DIP Order, and the Final Customer Programs Order. The Second Interim DIP Order and the Final Customer Programs Order are further interim and final versions, respectively, of the First Interim DIP Order and the

- 8 -

Interim Customer Programs Order that were initially granted on an interim basis by the U.S. Court and were previously recognized by the Ontario Court pursuant to the Supplemental Order.

(a) Second Interim DIP Order

22. As described in the Initial Affidavit and Second Affidavit, the Chapter 11 Debtors' post-petition operations in the near-term will not generate sufficient cash to continue operations in the ordinary course while funding the expenses associated with the Chapter 11 Cases and these CCAA Part IV proceedings. Accordingly, pursuant to the restructuring support agreement (the "**RSA**") entered into by the Chapter 11 Debtors, 1903 Partners, LLC (the lender under the Prepetition Credit Agreement, the "**Prepetition and DIP Lender**"), GB Funding, LLC (the administrative agent under the Prepetition Credit Agreement, the "**Prepetition and DIP Agent**"), and together with the Prepetition and DIP Lender, "**Gordon Brothers**"), MidOcean and Backyard Products, LLC (the "**Purchaser**"), Gordon Brothers agreed to provide a multi-draw debtor-in-possession term loan facility (the "**DIP Facility**") to meet the Chapter 11 Debtors' liquidity needs. Access to cash is essential to ensure the viability of the Company as a going concern, ensure the consummation of the Sale Transaction to the Purchaser, and to preserve the value of the Chapter 11 Debtors' estates. Because the Chapter 11 Debtors will continue their pre-filing Cash Management System, funds available under the DIP Facility will indirectly flow to the Canadian Debtors to enable their continued operation during these CCAA Part IV proceedings.

23. The First Interim DIP Order and the Second Interim DIP Order, among other things, authorize: (a) KidKraft as borrower to receive senior secured super-priority priming debtor-in-possession loans (each, a "**DIP Loan**" and in the aggregate, the "**DIP Loans**") from the Prepetition and DIP Lender on the terms set forth in the DIP Term Sheet and in accordance with an approved budget (included as Exhibit "B" to the First Interim DIP Order); and (b) the Chapter 11 Debtors to

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use, on a consensual basis, the Cash Collateral of Gordon Brothers under the Prepetition Credit Agreement.

24. The Second Interim DIP Order includes certain important differences from the First Interim DIP Order, including, most notably:

- (a) increasing the interim commitment under the DIP Facility from \$4.0 million to \$5.5 million, available upon entry of the Second Interim DIP Order (the “**Interim DIP Commitment**”);
- (b) decreasing the incremental final commitment under the DIP Facility from \$6.5 million to \$5.0 million, available upon entry of the Final DIP Order (as defined below) (the “**Final DIP Commitment**”); and
- (c) providing a deadline for the Committee to serve and file written objections to the entry of the Final DIP Order of June 11, 2024.

25. Accordingly, following the entry of the Second Interim DIP Order, the DIP Facility consists of an aggregate principal amount of:

- (a) \$10.5 million, consisting of the Interim DIP Commitment and the Final DIP Commitment (collectively, the “**New Money DIP Loans**”);
- (b) \$23.3 million of Prepetition Obligations, which will be deemed to have been advanced and shall convert into DIP Loans on a dollar-for dollar cashless basis upon entry of the proposed Final DIP Order (the “**Limited Roll-Up**”); and
- (c) use of the Cash Collateral from the time of the entry of the First Interim DIP Order until the Carve-Out Termination Date (as such term is defined in the Second Interim DIP Order and the proposed Final DIP Order).

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26. As noted in the Second Affidavit, the proceeds from the proposed DIP Facility will be used for, among other things, making payments integral to the Chapter 11 Debtors' business operations, paying administrative expenses associated with the Chapter 11 Cases and these CCAA Part IV proceedings, and satisfying working capital needs in the ordinary course of business. Moreover, the liquidity to be provided under the DIP Facility, combined with access to existing Cash Collateral, will enable the Chapter 11 Debtors to: (i) fund their operations during the course of the Chapter 11 Cases and these CCAA Part IV proceedings, including the administrative costs; (ii) ensure that value is preserved during the course of the Chapter 11 Debtors' Chapter 11 Cases; and (iii) consummate the Sale Transaction and confirm the Plan to maximize value for the Chapter 11 Debtors' estates.

27. Because the Chapter 11 Debtors will continue their pre-filing Cash Management System, funds available under the DIP Facility will indirectly flow to the Canadian Debtors to enable their continued operation during these CCAA Part IV proceedings.

28. I believe that the amount available to draw under the DIP Facility upon the entry of the Second Interim DIP Order addresses the Chapter 11 Debtors' (including the Canadian Debtors') immediate liquidity needs during the case and prior to the U.S. Court entering the proposed Final DIP Order.

29. In its pre-appointment report to the Ontario Court, dated May 16, 2024, the (then proposed) Information Officer included an analysis of the attributes of the DIP Facility, including its costs and the Limited Roll-Up feature, and its conclusion that the DIP Facility is reasonable and appropriate in the circumstances. I understand that the Information Officer will be filing a report to the Ontario Court (the "**First Report**") that will, among other things, include the Information

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Officer's conclusion that recognizing the Second Interim DIP Order is reasonable and appropriate in the circumstances.

(b) Bar Dates Order

30. The Bar Dates Order, among other things: (a) establishes claims bar dates and related procedures; and (ii) approves the form and manner of notice thereof. The key elements of the Bar Dates Order are as follows:¹

- (a) the general bar date to file proof of claims for prepetition claims (the “**General Bar Date**”), including claims arising under section 503(b)(9) of the U.S. Bankruptcy Code (*i.e.*, claims for the value of any goods received by the Chapter 11 Debtors in the ordinary course within 20 days before the Petition Date), is **June 28, 2024 at 5:00 p.m. (prevailing Central Time)**;
- (b) the bar date for governmental units to file proofs of claim for prepetition claims (the “**Governmental Bar Date**”) is **November 6, 2024 at 5:00 p.m. (prevailing Central Time)**;
- (c) in the event the Chapter 11 Debtors file a previously unfiled Schedule, or amend or supplement their Schedules, the bar date for claimants holding claims affected by such filing, amendment or supplement (the “**Amended Schedules Bar Date**”) is **the later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) 5:00 p.m. (prevailing Central Time) on the date that is 21 days from the date on which the Chapter 11 Debtors provide notice of the previous unfiled Schedule or amendment or supplement to the Schedules**;

¹ Capitalized terms referred to in this section of this Third Affidavit and not otherwise defined have the meaning ascribed to them in the Bar Dates Order.

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- (d) the bar date for claims relating to the rejection of an executory contract or unexpired lease (the “**Rejection Damages Bar Date**”) is the later of (i) the **General Bar Date or Governmental Bar Date, as applicable, and (ii) 5:00 p.m. (prevailing Central Time) on the date that is 21 days following service of an order approving the Chapter 11 Debtors’ rejection of any executory contract or unexpired lease;**
- (e) entities whose claims otherwise would be subject to the General Bar Date or Governmental Bar Date but who do not need to file proof of claim in the Chapter 11 Cases include, among others, any person or entity holding a claim allowable under sections 503(b) or 507(a)(2) of the U.S. Bankruptcy Code as an expense of administration incurred in the ordinary course (with the exception of claims under section 503(b)(9) of the U.S. Bankruptcy Code (*i.e.*, claims for the value of any goods received by the Chapter 11 Debtors in the ordinary course within 20 days before the Petition Date));
- (f) all known creditors and potential claimants will receive sufficient notice of the claims process, including as follows:
 - (i) within two (2) business days after entry of the Bar Dates Order, the Chapter 11 Debtors will serve, or will cause Stretto to serve, a notice of the Bar Dates (the “**Bar Date Notice**”) and proof of claim form (“**Proof of Claim Form**”, and collectively with the Bar Date Notice, “**Bar Dates Notice Package**”) to:
 - (A) all holders of claims or potential claims;
 - (B) the Office of the United States Trustee for the Northern District of Texas;
 - (C) counsel to the official committee of unsecured creditors, if any;

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- (D) all parties that have requested notice in the Chapter 11 Cases pursuant to U.S. Bankruptcy Rule 2002 as of the date of the entry of the Bar Dates Order;
 - (E) all known creditors and other known holders of potential claims against any of the Chapter 11 Debtors;
 - (F) all counterparties to executory contracts and unexpired leases of the Chapter 11 Debtors listed in the Schedules or their designated representatives;
 - (G) all parties to pending litigation with the Chapter 11 Debtors;
 - (H) all current and former employees of the Chapter 11 Debtors (to the extent that contact information for former employees is available in the Chapter 11 Debtors' records);
 - (I) the Internal Revenue Service and all other taxing authorities for the jurisdictions in which the Chapter 11 Debtors conduct business;
 - (J) all relevant state attorneys general;
 - (K) all identified registered holders of any Interests in any of the Chapter 11 Debtors as of the Petition Date (although copies of the Proof of Claim Form will not be provided to them);
 - (L) all other entities listed on the Chapter 11 Debtors' respective creditor matrices; and
 - (M) counsel to any of the foregoing, if known;
- (ii) the Chapter 11 Debtors will also post the Bar Date Notice and Proof of Claim Form on Stretto's website at <https://www.cases.stretto.com/kidkraft>;
 - (iii) for any proof of claim to be validly and properly filed, a claimant must deliver a completed, signed original of the Proof of Claim Form together with any accompanying documentation required by Bankruptcy Rules 3001(c) and 3001(d), to Stretto at the address identified on the Bar Date Notice, or to the Clerk of the U.S. Court, so as to be received no later than 5:00 p.m., prevailing Central Time on the applicable Bar Date;
 - (iv) consistent with U.S. Bankruptcy Rule 3003(c)(2), any entity that is required to file a proof of claim but otherwise fails to properly file a proof of claim by the applicable Bar Date shall not be treated as a creditor with respect to such claim for purposes of voting and distribution; and
 - (v) two business days after serving the Bar Dates Notice Package or as soon as reasonably practicable thereafter, the Chapter 11 Debtors will publish the

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Bar Date Notice, with any necessary modifications for ease of publication (the “**Publication Notice**”) in *The New York Times* (national edition), the national edition of *The Globe and Mail* in Canada, and certain other publications as the Chapter 11 Debtors deem appropriate in their discretion as a means to provide notice of the Bar Dates to such unknown potential claimants.

31. On June 11, 2024, Stretto sent copies of the Bar Dates Notice Package by first-class mail to the entities set out in paragraph 31(f)(i), including to the known creditors of the Chapter 11 Debtors in Canada, the Canada Revenue Agency, the Ontario Ministry of Finance and the Alberta Ministry of Finance. Stretto also published the Bar Date Notice and Proof of Claim Form on its website.

32. The Foreign Representative’s filings and the Ontario Court’s order in these CCAA Part IV proceedings are available on the Information Officer’s website. The Information Officer has confirmed that it intends to post a copy of the Bar Dates Order and the proposed Third Recognition Order (or other order of the Ontario Court recognizing the Bar Dates Order) on its website. The Foreign Representative intends to provide information regarding these proceedings to its stakeholders as inquiries arise.

33. I have been advised that the Information Officer has made arrangements to publish the Publication Notice in the national edition of *The Globe and Mail* within two business days of the granting of an order recognizing the Bar Dates Order.

34. I have been advised that the Information Officer is supportive of the relief requested in respect of the Bar Dates Order and will outline its support in the First Report, to be filed.

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(c) Final Customer Programs Order

35. The Final Customer Programs Order, among other things, authorizes the Chapter 11 Debtors to: (a) maintain and administer certain of their customer programs, promotions, and practices (the “**Customer Programs**”); and (b) honour certain prepetition obligations related thereto.

36. As set out in more detail in the Second Affidavit, the Customer Programs consist of various discounts, rebates, returns, and markdowns, all of which are considered when determining the transaction price. The Customer Programs offered are unique to each customer and may be contractual or discretionary depending on the customer and the circumstances. In general, the Chapter 11 Debtors offer (i) discounts that range from 0.5 percent to 10 percent of sales; (ii) rebates that range from 1 percent to 6 percent of sales; (iii) allowances to cover returns that range from 1 percent to 5 percent of sales; and (iv) markdowns that range from 0.5 percent to 5 percent of sales, in each case to a given customer. The majority of these Customer Programs are booked as deductions from invoices, and the remainder are paid through invoices received from customers.

37. As described in the Second Affidavit, continuation of the Customer Programs is vital to maintaining and maximizing the value of the Chapter 11 Debtors’ estates, since the Chapter 11 Debtors’ business is highly dependent upon the loyalty of the Chapter 11 Debtors’ customers.

38. The Final Customer Programs Order contains substantially the same material terms as the Interim Customer Programs Order.

D. Proposed Next Hearing

39. A hearing before the U.S. Court is scheduled for June 21, 2024, to consider confirmation of the *Debtors’ Joint Prepackaged Chapter 11 Plan*, filed on May 10, 2024, as amended by the

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Notice of Supplement to the Debtors' Joint Prepackaged Chapter 11 Plan, filed June 12, 2024, and the *Notice of Amended Supplement to the Debtors' Joint Prepackaged Chapter 11 Plan*, filed June 14, 2024, and as may be further amended (collectively, the “**Plan**”), and motions seeking the following orders (the “**Second Day Orders**”):

- (a) *Final Order (I) Authorizing the Debtors to Pay (A) Critical Vendors, (B) Lien Claimants, and (C) 503(B)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief;*
- (b) *Final Order (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts, (B) Continue Using Existing Checks and Business Forms, (C) Maintain Their Corporate Card Program, and (D) Continue Intercompany Transactions, and (II) Granting Related Relief;*
- (c) *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001, and 9014 (I) Authorizing Debtors and Debtors in Possession to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “**Final DIP Order**”); and*
- (d) *Order (I) Approving Certain Bidder Protections, (II) Approving Contract Assumption and Assignment Procedures, and (III) Granting Related Relief.*

40. In anticipation of obtaining an order from the U.S. Court confirming the Plan, the Foreign Representative has scheduled a hearing before the Ontario Court on June 28, 2024, at which it intends to seek recognition of the confirmation of the Plan and the Second Day Orders, approval of the fees of the Information Officer and its counsel, and provisions for the termination of these CCAA Part IV Proceedings upon the filing of a certificate by the Information Officer.

SWORN BEFORE ME over
videoconference in accordance with the
*Administering Oath or Declaration Remotely
Regulation*, O. Reg 431/20, on June 17, 2024,
while I was located in the City of Toronto, in
the Province of Ontario, and the affiant was
located in the City of Dallas in the State of
Texas.



Emma Smith (LSO# 87407T)
Commissioner for Taking Affidavits
(or as may be)



GEOFFREY WALKER

THIS IS **EXHIBIT “A”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)

Court File No.

**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 KIDKRAFT, INC., SOLOWAVE DESIGN
HOLDINGS LIMITED, SOLOWAVE DESIGN INC., SOLOWAVE
INTERNATIONAL INC. AND SOLOWAVE DESIGN LP

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE
COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AMENDED

Applicant

AFFIDAVIT OF GEOFFREY WALKER

I, Geoffrey Walker, of the City of Dallas, in the State of Texas, MAKE OATH AND SAY:

1. I am the Chief Executive Officer and President of KidKraft, Inc. (“**KidKraft**”), and together with its debtor and non-debtor affiliates, the “**Company**”). I joined the Company in 2019 and have served in my current role since that time.

2. As Chief Executive Officer and President of the KidKraft, I am familiar with, and have personal knowledge regarding, the Chapter 11 Debtors’ (defined below) businesses, day-to-day operations, financial affairs, and books and records, including those of Solowave Design Holdings Limited, Solowave International Inc. and Solowave Design Inc. (collectively, the “**Canadian Corporate Debtors**”), and Solowave Design LP (together with the Canadian Corporate Debtors, the “**Canadian Debtors**”). As such, I have personal knowledge of the matters deposed herein. Where I have relied on other sources of information, I have so stated and believe them to be true. In preparing this affidavit, I have also consulted with the Company’s senior management team,

and financial and legal advisors. The Company does not waive or intend to waive any applicable privilege by any statement in this affidavit.

3. On May 10, 2024, KidKraft, the Canadian Debtors, and six other debtors and debtors in possession¹ (collectively, the “**Chapter 11 Debtors**”) filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “**U.S. Court**”). The cases commenced by the Chapter 11 Debtors in the U.S. Court are referred to herein as the “**Chapter 11 Cases**”.

4. I affirm this affidavit in support of the application by KidKraft, in its capacity as the proposed foreign representative of the Chapter 11 Debtors (in such capacity, the “**Foreign Representative**”), for an order (the “**Interim Stay Order**”) pursuant to Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c C.43, among other things, granting an interim stay of proceedings in respect of the Canadian Debtors and KidKraft, and their respective directors and officers.

5. In its notice of application, KidKraft is also seeking the following orders, *inter alia*, which will be the subject of a future hearing following the entry of orders (the “**First Day Orders**”) by the U.S. Court in respect of certain First Day Motions (as defined below):

¹ The Chapter 11 Debtors are KidKraft, Inc., KidKraft Europe, LLC, KidKraft Intermediate Holdings, LLC, KidKraft International Holdings, Inc., KidKraft Partners, LLC, KidKraft International IP Holdings, LLC, Solowave Design Corp., Solowave Design Holdings Limited, Solowave Design Inc., Solowave Design LP, and Solowave International Inc.

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- (a) an order (the “**Initial Recognition Order**”), among other things:
 - (i) recognizing the Chapter 11 Cases in respect of KidKraft and the Canadian Debtors as “foreign main proceedings” pursuant to Part IV of the of the CCAA; and
 - (ii) recognizing KidKraft as the “foreign representative” in respect of the Chapter 11 Cases of KidKraft and the Canadian Debtors; and

- (b) an order (the “**Supplemental Order**”), among other things:
 - (i) recognizing certain other First Day Orders issued by the U.S. Court in the Chapter 11 Cases, including the Foreign Representative Order (as defined below);
 - (ii) granting a stay of proceedings in respect of KidKraft and the Canadian Debtors and their respective directors and officers;
 - (iii) appointing KSV Restructuring Inc. as the information officer in this proceeding (in such capacity, the “**Information Officer**”);
 - (iv) granting a Court-ordered charge on the present and future assets, property and undertakings of KidKraft located in Canada and of the Canadian Debtors (the “**Canadian Property**”) to secure:
 - (A) the professional fees and disbursements incurred in respect of this proceeding by the Information Officer, its counsel and KidKraft and the Canadian Debtors’ Canadian counsel (up to a maximum amount of CAD\$750,000);
 - (B) the indemnity granted by KidKraft and the Canadian Debtors in favour of their respective directors and officers in respect of obligations and liabilities in Canada that they may incur as directors or officers after the commencement of this proceeding (up to a maximum amount of CAD\$100,000); and
 - (C) advances under a debtor-in-possession credit facility.

6. The Interim Stay Order is being sought as soon as possible to ensure that the status quo is preserved in respect of KidKraft, the Canadian Debtors and the Canadian Property pending the granting of the First Day Orders by the U.S. Court, including an order authorizing KidKraft to act as Foreign Representative (the “**Foreign Representative Order**”). In particular, I am concerned that certain of the agreements held by KidKraft relating to its Canadian business and by the Canadian Debtors contain provisions allowing the counterparties to terminate such agreements upon commencement of insolvency proceedings or a change in the Chapter 11 Debtors’ financial condition. Further, a third-party logistics provider is in possession of inventory in Canada owned by KidKraft and/or the Canadian Debtors in respect of which the third-party logistics provider may be able to exercise remedies in the absence of a stay. Accordingly, the Interim Stay Order is being requested to protect the Company’s Canadian business and the Canadian Property from immediate actions of creditors and contract counterparties in Canada.

7. Shortly after the U.S. Court has issued the Foreign Representative Order and the other First Day Orders, KidKraft, in its capacity as the Foreign Representative, intends to return to this Court to seek the Initial Recognition Order and the Supplemental Order.

8. All monetary references in this affidavit are in U.S. dollars, unless otherwise stated.

9. This affidavit is organized into the following sections:

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PART I - OVERVIEW

10. On May 10, 2024 (the “**Petition Date**”), each of the Chapter 11 Debtors filed voluntary petitions for relief (together, the “**Petitions**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code with the U.S. Court.

11. Also on May 10, 2024, the Chapter 11 Debtors filed or intend to file several first day motions and applications, including a motion seeking the Foreign Representative Order, with the U.S. Court (collectively, the “**First Day Motions**”). A hearing in respect of the following First Day Motions is expected to be heard by the U.S. Court on May 13:

- (a) *Emergency Motion for Entry of an Order (I) Authorizing KidKraft, Inc. to Act as Foreign Representative and (II) Granting Related Relief;*
- (b) *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts, (B) Continue Using Existing Checks and Business Forms, (C) Maintain Their Corporate Card Program, and (D) Continue Intercompany Transactions and (II) Granting Related Relief;*
- (c) *Emergency Application for Entry of Order Appointing Stretto, Inc. as Claims, Noticing, and Solicitation Agent;*

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- (d) *Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) File a Consolidated Creditor Matrix; (B) File a Consolidated List of 30 Largest Unsecured Creditors; and (C) Redact Certain Personal Identification Information; and (II) Granting Related Relief;*
- (e) *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay (A) Critical Vendors, (B) Lien Claimants, and (C) 503(b)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief;*
- (f) *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief;*
- (g) *Emergency Motion for Entry of an Order (I) Scheduling a Combined Hearing, (II) Establishing Objection Deadlines, (III) Approving the Solicitation Materials and Tabulation Procedures, and (IV) Granting Related Relief;*
- (h) *Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief;*
- (i) *Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Continue Their Prepetition Insurance Coverage and Satisfy Prepetition Obligations Related Thereto; (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Coverage on a Postpetition Basis in the Ordinary Course; and (C) Continue Their Prepetition Customs Bond Program and Satisfy Prepetition Obligations Related Thereto; (II) Modifying the Automatic Stay Solely With Respect to Workers' Compensation Claims; and (III) Granting Related Relief;*
- (j) *Emergency Motion for Entry of an Order Directing Joint Administration of the Debtors' Chapter 11 Cases;*
- (k) *Emergency Motion for an Order Pursuant to Bankruptcy Rule 1007 Granting an Extension of Time for Filing Schedules and Statements of Financial Affairs;*
- (l) *Emergency Motion for Entry of an Order (I) Approving the Debtors' Proposed Adequate Assurance Payments for Future Utility Services; (II) Prohibiting Utility Companies from Altering, Discontinuing, or Refusing Services; (III) Approving the Debtors' Proposed Procedures for Resolving Additional Adequate Assurance Requests; and (IV) Granting Related Relief;*
- (m) *Emergency Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting*

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Adequate Protection to the Prepetition Secured Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief; and

- (n) *Motion for Entry of an Order (I) Authorizing the Debtors to Pay Certain Taxes and Fees and (II) Granting Related Relief.*

12. In support of the First Day Motions, I will submit a declaration (the “**First Day Declaration**”) to the U.S. Court.

13. The First Day Declaration will provide a comprehensive overview of the Company and the events leading up to the commencement of the Chapter 11 Cases. As such, this Affidavit provides only a general overview of the foregoing and focuses on giving this Court information about the operations of the Chapter 11 Debtors incorporated or established under the law of Canada or one of the provinces (*i.e.*, the Canadian Debtors) or otherwise holding any of the Canadian Property, as relevant to the granting of the proposed Interim Stay Order and these proceedings.

14. I, or another representative of KidKraft, will provide a further affidavit containing information to support a finding of the centre of main interest of each of the Chapter 11 Debtors and the granting of the other relief sought in the proposed Initial Recognition Order and Supplemental Order.

15. In addition, I understand that copies of the Petitions and the filed First Day Declaration will be attached to the affidavit of Emilie Dillon, an associate lawyer with the law firm Osler, Hoskin & Harcourt LLP (“**Osler**”), Canadian counsel to the Chapter 11 Debtors, and will be provided to the Court at or before the hearing of the application for the Interim Stay Order. I am advised by the Chapter 11 Debtors’ U.S. counsel and believe that the U.S. Court office was unable to process certified copies of the Petitions on May 10, 2024. The Foreign Representative will

obtain certified copies of the Petitions as soon as it is able and then immediately forward them to Osler. The certified copies will be provided to this Court as soon as possible upon arrival.

PART II - THE BUSINESS

A. Overview

16. Founded in Dallas in 1968, KidKraft is a privately held company that is a leader in branded, sustainable, wood-based active and imaginative play products such as swing sets, dollhouses, playhouses, and more. Originally focused on made-from-wood children's furniture, the Company later expanded its product offerings, focusing on imaginative play including dollhouses and role-play kitchens, and in 2008 and 2009 expanded its global footprint by opening offices in the Netherlands to serve the European, Middle Eastern, African, and Asian markets and China to facilitate the production and distribution of the Company's products. The Company further expanded its product offerings to include outdoor playhouses and swing sets and, in 2016, acquired the Solowave Design business — a leading maker of outdoor wood play sets in Canada.

17. The Company's various product lines are generally divided between products sold for use outdoors (the "**Outdoor Business**") and products sold for use indoors (the "**Indoor Business**"). Approximately 59% of the Company's sales were attributable to the Outdoor Business with the remaining 41% attributable to the Indoor Business during the fiscal year ended March 31, 2024.

- (a) The Outdoor Business has several product lines, including swing sets, playhouses, outdoor furniture, and climbers, with swing sets and playhouses making up the majority of the Company's sales in the Outdoor Business.
- (b) The Indoor Business similarly has several product lines, including indoor furniture, vehicles and playsets, role play, and doll play. The Indoor Business is well

diversified, with each product category making up between 16% to 35% of the Indoor Business sales. The products are designed to be easily assembled in the home, creating imaginative play for children.

B. The Chapter 11 Debtors and Their Non-Debtor Affiliates

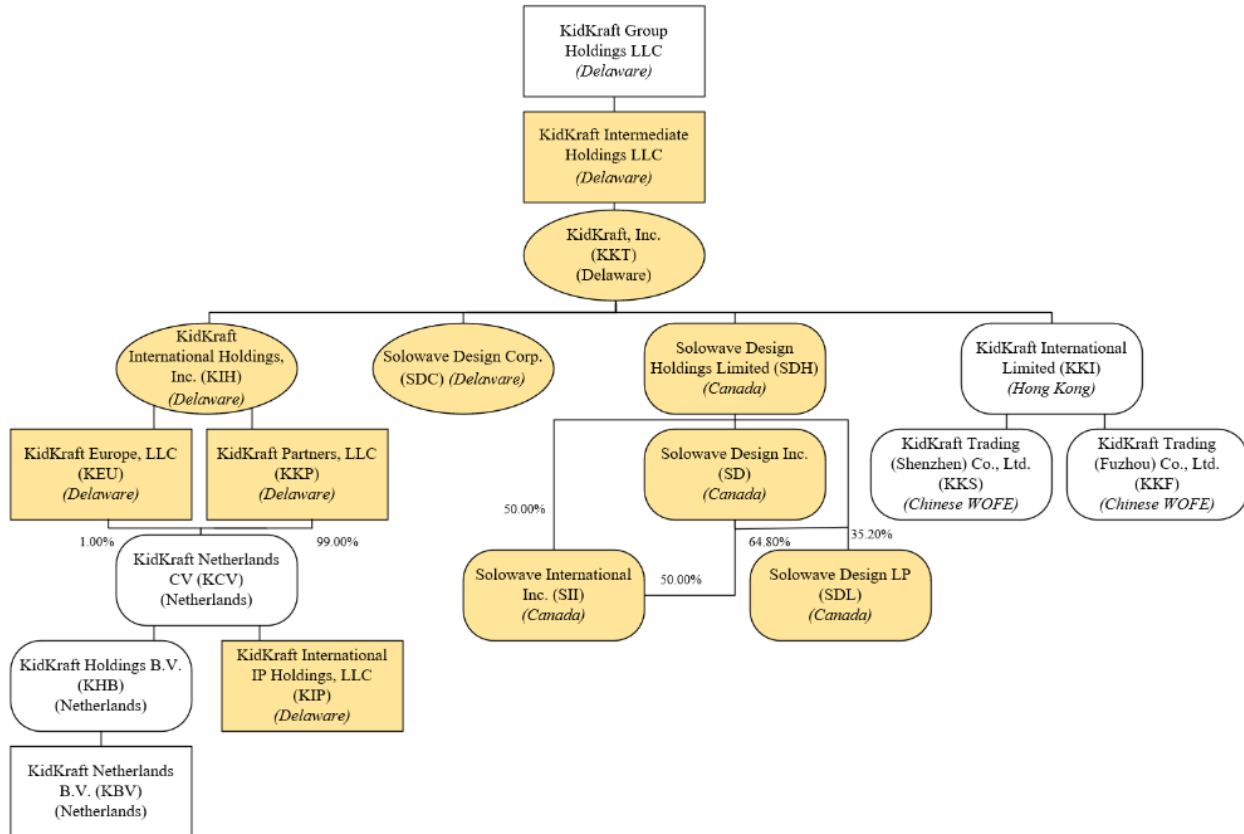
18. The Company's organizational structure consists of eighteen entities, of which eleven are debtors in the Chapter 11 Cases. All of the Chapter 11 Debtors are incorporated or established under the laws of the U.S., with the exception of the Canadian Debtors.

19. Each of the Canadian Corporate Debtors is incorporated under the laws of Ontario. Solowave Design LP is a limited partnership formed under the laws of the Province of Alberta.

20. Solowave Design Holdings Limited is a direct wholly-owned subsidiary of KidKraft. Solowave Design Inc. is a direct wholly-owned subsidiary of Solowave Design Holdings Limited. Solowave International Inc. is 50% owned by Solowave Design Inc. and 50% owned by Solowave Design Holdings Limited. Solowave Design LP's limited partner is Solowave Design Holdings Limited and its general partner is Solowave Design Inc.

21. Each of the other Chapter 11 Debtors are also direct or indirect wholly-owned subsidiaries of KidKraft, or its immediate parent, KidKraft Intermediate Holdings LLC. The Netherlands and Chinese Company entities are not Chapter 11 Debtors in the Chapter 11 Cases. The following is a simplified organization chart of the Company, with the Chapter 11 Debtor entities highlighted in yellow:

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22. The non-debtors include the ultimate parent company, KidKraft Group Holdings LLC, which is not a guarantor or borrower on any of the Company's funded debt, as well as the Company's subsidiaries in China and the Netherlands. The China subsidiaries oversee production and distribution of the Company's products in China, and are also not guarantors or borrowers on any of the Company's funded debt. The Netherlands subsidiaries support sales and distribution of the Company's products in Europe, the Middle East, Africa, and Asia-Pacific. As noted below, KidKraft Netherlands B.V. is a borrower and the other Netherlands subsidiaries are guarantors under the Prepetition Credit Agreement (defined below), but the obligations of each of the Netherlands subsidiaries is not to exceed \$10,000,000.

C. The Financial Position of the Canadian Debtors

23. There are no stand-alone audited financial statements for the Canadian Debtors. The financial results of these entities have historically been consolidated with the Company's financial statements, and an audit is performed on a consolidated basis only.

24. Based on the trial balance for Solowave Design LP, which partnership carries on the business of the Canadian Debtors, as at March 31, 2024 (the "**March 2024 Trial Balance**"), the Canadian Debtors had total assets of approximately CAD\$5,643,477, including accounts receivable of approximately CAD\$3,259,732 and inventory of approximately CAD\$564,753.

25. Based on the March 2024 Trial Balance, the Canadian Debtors had liabilities of approximately CAD\$1,893,682, before considering their potentially substantial obligations under their guarantees of Chapter 11 Debtors' indebtedness under the Prepetition Credit Agreement (as defined below). Those contingent obligations would in all likelihood erode the book value of any equity that may be reflected on the Canadian Debtors' unaudited financial statements.

26. Based on the March 2024 Trial Balance, during the fiscal year ended March 31, 2024, the Canadian Debtors had gross sales of approximately CAD\$10,970,094.

D. Operations

(a) General

27. KidKraft distributes its products through several large stores, including Costco, Sam's Club, Target, and Walmart, online retailers, including Amazon and Wayfair, and direct-to-consumer sales from the Company's website. In recent years the Company has scaled its global drop-shipping infrastructure to support continued growth in its online direct to consumer sales and complement its existing warehouse and distribution capabilities. In addition, the Company has

strong business relationships across global retailers with more than 3,000 points of distribution in over 90 countries, as well as within the global logistics community.

(b) Operations in Canada

28. The Company is headquartered at 4630 Olin Road in Dallas, Texas. The business of the Chapter 11 Debtors, including the Canadian Debtors, is run out of the U.S. headquarters. The Company has no Canadian headquarters or office locations.

29. The Company's business in Canada is principally as a distributor. Both KidKraft and Solowave Design LP sell products to Canadian customers. The Company has no retail locations in Canada. Rather, the Company's key customers in Canada are retailers, including Costco, Toys "R" Us, Canadian Tire, Home Depot and Walmart. The Company also sells its products through Wayfair on a consignment basis. Canadian consumers can also place orders directly through the Company's website, which is operated by KidKraft.

30. In Canada, the Company supplies its products to its customers via a third-party logistics provider, Mainfreight Inc. ("**Mainfreight**"), pursuant to a logistics services agreement between KidKraft and Mainfreight, dated July 28, 2023. As of April 30, 2024, Mainfreight was in possession of inventory valued at approximately CAD\$323,000, all of which inventory is owned by KidKraft or Solowave Design LP and is maintained at Mainfreight's facility in Mississauga (or is in transit thereto or therefrom).

31. On a consolidated basis, during the fiscal year ended March 31, 2024, the Company's gross sales to Canadian customers exceeded \$12.8 million.

32. KidKraft and Solowave Design LP have entered into Receivables Sales Agreements dated August 4, 2021 and April 21, 2022, respectively, with Coface Finanz GmbH (“**Coface**”), pursuant to which Coface purchases accounts receivable from KidKraft and Solowave Design LP (the “**KidKraft Receivables Sale Agreement**” and the “**Solowave Receivables Sale Agreement**”, respectively). Among other things, the parties to these agreements and the lenders under the Prepetition Credit Agreement (as defined below) have entered into lien release and acknowledgment agreements that govern the respective security interests over the accounts receivable of KidKraft and Solowave Design LP. On April 20, 2022, Coface registered financing statements pursuant to the *Personal Property Security Act* (Ontario) and the *Personal Property Security Act* (Alberta) against Solowave Design LP and Solowave Design Inc. Coface’s financing statements are for a period of ten years and cover the accounts receivable and other security as provided for under the Solowave Receivables Sale Agreement. To the extent the terms of the KidKraft Receivables Sale Agreement and the Solowave Receivables Sale Agreement are relevant to the granting of the Initial Recognition Order and Supplemental Order, additional information will be included in the affidavit made in support thereof.

E. Employees

33. As of the Petition Date, the Chapter 11 Debtors employ over 60 individuals on a full-time or part-time basis in the U.S. and Canada (the “**Employees**”).² The Company’s management team is supported by mid-level executives who are vital to the Company’s operations, these Chapter 11 Cases, and the ability to successfully consummate the Sale Transaction (as defined below). Their skills, knowledge, and understanding of the Debtors’ operations are essential to preserving

² The Company’s non-debtor affiliates in the Netherlands and China employ an additional 170 individuals.

operational stability, safety, and efficiency. KidKraft employs one full-time Employee in Canada. The Canadian Debtors do not employ any Employees, in Canada or otherwise.

34. None of the Employees are represented by a union or are subject to a collective bargaining agreement. There is no registered pension plan in Canada.

PART III - PREPETITION CAPITAL STRUCTURE AND INDEBTEDNESS

35. As of the Petition Date, the Chapter 11 Debtors' funded debt liabilities total approximately \$151.9 million, including approximately (i) \$149.9 million in outstanding principal and (ii) \$2.0 million in accrued and unpaid interest. The Chapter 11 Debtors' funded debt obligations include:

Facility	Maturity	Total Approx. Principal Amount Outstanding
Prepetition First Lien Revolving Facility ³	June 2024	\$63.2 million
Prepetition First Lien Term Facility ³	June 2024	\$81.7 million
Total Funded Secured Debt		\$144.9 million
Subordinated Unsecured Note ⁴	January 2025	\$5.0 million
Total Funded Debt		\$149.9 million

A. Prepetition Credit Agreement

36. The Chapter 11 Debtors' primary long-term debt consists of that certain Amended and Restated First Lien Credit Agreement dated as of April 3, 2020, among KidKraft and KidKraft Netherlands B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands, as borrowers, KidKraft Intermediate Holdings, LLC and its subsidiaries that are guarantors thereto, the lender party

³ As described below, the Canadian Debtors are guarantors of the Prepetition First Lien Revolving Facility and the Prepetition First Lien Term Facility.

⁴ The Canadian Debtors are neither obligors, nor guarantors, of the subordinated unsecured note.

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thereto, and the administrative agent (as amended by that certain (a) Forbearance and Amendment No. 1 to Amended and Restated First Lien Credit Agreement, dated as of January 13, 2023 (the “**First Amendment**”), (b) Amendment No. 2 to Amended and Restated First Lien Credit Agreement, dated as of March 22, 2023, (c) Forbearance and Amendment No. 3 to Amended and Restated First Lien Credit Agreement, dated as of September 29, 2023 (the “**Third Amendment**”), (d) Amendment No. 4 to Amended and Restated First Lien Credit Agreement, dated as of October 27, 2023, (e) Forbearance, Amendment No. 5 and Joinder to Amended and Restated First Lien Credit Agreement, dated as of January 31, 2024 (the “**Fifth Amendment**”), and (f) Amendment No. 6 to the Amended and Restated First Lien Credit Agreement, dated as of May 9, 2024 (the “**Sixth Amendment**”), and as may be further amended, restated, amended and restated, extended, supplemented or otherwise modified in writing from time to time, the “**Prepetition Credit Agreement**”). The lender has provided commitments under the Prepetition Credit Agreement consisting of revolving credit commitments (such commitments, collectively, the “**Prepetition First Lien Revolving Facility**”) and term loan commitments (such commitments, collectively, the “**Prepetition First Lien Term Facility**”), each of which is secured by a first priority lien on substantially all of the Chapter 11 Debtors’ assets, as well as liens on the Company’s Dutch subsidiaries’ assets.

37. The Fifth Amendment was entered in connection with the Debt Sale (defined below) and joined KidKraft’s Dutch and Canadian affiliates (i.e., the Canadian Debtors) as guarantors under the Prepetition Credit Agreement, joined KidKraft Netherlands B.V. as a co-borrower, increased the priority revolving commitments under the Prepetition Credit Agreement to \$26,780,000, and extended the maturity of the term loans under the Prepetition Credit Agreement from June 30, 2023 to June 30, 2024, giving the Company crucial liquidity and runway to pursue

restructuring alternatives. As security for the guarantees, *inter alia*, the following agreements were entered into:

- (a) a security agreement supplement dated January 31, 2024, whereby the Canadian Debtors became parties to the original security agreement securing the obligations under the Prepetition Credit Agreement;
- (b) a general security agreement dated January 31, 2024, whereby the Canadian Debtors pledged a security interest in all of the Canadian Debtors' personal property and securities (except certain excluded personal property and interests over which Coface holds security pursuant to the Solowave Receivables Sale Agreement);
- (c) patent security agreements dated January 31, 2024 and February 8, 2024, whereby security interests were granted over certain U.S. and Canadian patents held by Solowave Design Inc., Solowave Design LP and/or KidKraft; and
- (d) trademark security agreements dated January 31, 2024 and February 8, 2024, whereby security interests were granted over certain U.S. and Canadian trademark registrations and applications owned by Solowave Design Inc. and/or KidKraft.

38. Prior to the Petition Date, the Sixth Amendment was entered into to document the amendments to the Prepetition First Lien Term Facility pursuant to the RSA (as hereinafter defined) and account for the \$4,766,198 in additional priority revolving commitments that had been advanced since entry into the Fifth Amendment.

39. As of the Petition Date, the Chapter 11 Debtors' aggregate principal outstanding funded debt obligations under the Prepetition Credit Agreement total approximately \$144,900,000, comprised of: (i) \$81,700,000 under the Prepetition First Lien Term Facility; and (ii) \$63,200,000 under the Prepetition First Lien Revolving Facility. In addition, the Chapter 11 Debtors owe accrued and unpaid interest under both the Prepetition First Lien Term Facility and the Prepetition First Lien Revolving Facility.

B. Subordinated Note, Trade Vendors, and Other Unsecured Liabilities

40. In connection with the First Amendment, MidOcean Partners IV, L.P. ("**MidOcean**"), the Company's equity sponsor, agreed to provide an unsecured subordinated loan to KidKraft in the amount of \$5,000,000 (the "**Subordinated Note**"). The loan is documented in that certain Note Purchase Agreement, dated as of January 13, 2023 among KidKraft and MidOcean, and subordinated to the Prepetition Credit Agreement via a Subordination Agreement, dated as of January 13, 2023 among KidKraft, MidOcean, KidKraft Intermediate Holdings, LLC and the administrative agent under the Prepetition Credit Agreement. As of the Petition Date, the Subordinated Note is outstanding; however, MidOcean has agreed under the RSA (as defined below) to a waiver of the Subordinated Note obligations on the effective date of the Plan.

41. In the ordinary course of business, the Chapter 11 Debtors rely on numerous trade vendors to operate their businesses. These trade vendors include producers of the Chapter 11 Debtors' products, marketing and advertising services, and shipping and logistics services that deliver the finished products to the Chapter 11 Debtors and to various customers. As a result of the Chapter 11 Debtors' business with these trade vendors, the Chapter 11 Debtors (which for greater certainty includes the Canadian Debtors) have accrued approximately \$30,000,000 in unsecured trade claims as of the Petition Date.

C. Equity Interests in KidKraft Intermediate Holdings, LLC

42. Non-Chapter 11 Debtor KidKraft Group Holdings LLC owns 100% of the equity interests in KidKraft Intermediate Holdings, LLC. KidKraft Group Holdings LLC is majority owned by MidOcean.

D. Canadian PPSA Searches

43. I am advised by Justin Kanji, a lawyer at Osler, and believe, that lien searches were conducted on or about April 7 (in the case of Ontario) and April 8 (in the case of Alberta), 2024, against the Canadian Debtors under the *Personal Property Security Act* (or equivalent legislation) in Ontario and Alberta (the “**PPSA Searches**”). Copies of the PPSA Searches are attached hereto as **Exhibit “A”**.

44. Of the entities with PPSA registrations against the Canadian Debtors and/or KidKraft, other than the PPSA registrations in respect of the Prepetition Credit Agreement and the guarantees thereof, the only entity that is currently a creditor of the Canadian Debtors and/or KidKraft is Coface.

PART IV - EVENTS LEADING TO THE CHAPTER 11 CASES

45. As will be set out in greater detail in the First Day Declaration, the Company is currently facing significant balance sheet and liquidity challenges, caused by a range of factors that ultimately resulted in the Company’s operating margins being squeezed. In addition, the Company was unable to refinance or replace its funded debt that originally matured in June 2023 (now June 2024). The Company proactively worked to address their balance sheet and liquidity challenges, including through a balance sheet restructuring in 2023 and by running multiple robust out-of-court sale processes prior to the Petition Date.

46. In connection with these actions, the Company engaged advisors to explore strategic alternatives, including a potential sale of all or substantially all of the assets or equity of the Company. After a sale process undertaken in the fall of 2023 failed to result in a sale, the Company continued to face significant liquidity challenges and worked with its advisors to begin contingency planning for a potential in-court restructuring process in December 2023 and January 2024. Subsequently, an agreement was reached pursuant to which 1903 Partners, LLC (“**Gordon Brothers**”) purchased the existing debt under the Prepetition Credit Agreement (the “**Debt Sale**”). In connection therewith, Gordon Brothers provided additional financing in the form of revolving priority loans to the Company to maintain its operations and prevent further degradation of its business while the Company and Gordon Brothers worked collaboratively to explore value-maximizing strategic alternatives.

47. Following a second sale process in the spring of 2024, Backyard Products, LLC (the “**Purchaser**”) emerged with a bid to purchase a substantial majority of the Company’s assets with such sale to be effectuated in Chapter 11 (the “**Sale Transaction**”). On April 25, 2024, the Chapter 11 Debtors, Gordon Brothers, MidOcean and the Purchaser entered into a restructuring support agreement (the “**RSA**”), documenting the parties’ commitment to the restructuring transactions described in the RSA.

48. Among other things, the RSA contemplates Gordon Brothers voting in favour of a joint prepackaged Chapter 11 plan (the “**Plan**”) and providing debtor-in-possession financing, and the sale of certain of the Chapter 11 Debtors’ assets to the Purchaser through the Chapter 11 Cases. Additional information regarding the RSA, the Plan and the proposed debtor-in-possession facility will be included in the further affidavit made in support of the Initial Recognition Order and Supplemental Order.

PART V - URGENT NEED FOR RELIEF IN CANADA

49. Given the filing of the Petitions with the U.S. Court and the commencement of the Chapter 11 Cases, and the nature of the operations in Canada, KidKraft and the Canadian Debtors are in urgent need of an interim stay of proceedings in Canada pending the entry of the First Day Orders and a further hearing in Canada seeking their recognition and commencing proceedings under the CCAA.

50. Maintaining the status quo will prevent unnecessary disruptions within the Chapter 11 Debtors' Canadian supply chain and Canadian business. In particular, an interim stay is necessary to protect the Company's valuable inventory, which is currently stored in, or in transit within, Canada by third parties. Preservation of such inventory is essential to the success of the Chapter 11 Cases given that such inventory is proposed to secure the Company's proposed debtor-in-possession facility and be included as part of the Sale Transaction.

51. Subject to the automatic stay that arises upon the filing of the Petitions with the U.S. Court and the proposed Canadian stay of proceedings requested from this Court, (a) counterparties to agreements with KidKraft relating to its Canadian business and with the Canadian Debtors could seek to terminate such agreements due to the recent commencement of Chapter 11 Cases; and (b) creditors of KidKraft and the Canadian Debtors could seek to pursue self-help remedies against the Canadian Property in Canada.

PART VI - RELIEF SOUGHT

52. By operation of the U.S. Bankruptcy Code, the Chapter 11 Debtors obtained the benefit of a stay of proceedings upon filing the Petitions with the U.S. Court.

53. The proposed Interim Stay Order provides for a stay of proceedings in favour of KidKraft and the Canadian Debtors in respect of the Canadian Property. The proposed Interim Stay Order also provides for a stay of proceedings in favour of the directors and officers of the KidKraft and the Canadian Debtors. The proposed Interim Stay Order will give effect in Canada to the stay of proceedings in the Chapter 11 Cases and provide stability and preserve the value of the Canadian business until KidKraft can be duly authorized to act as the Foreign Representative by the U.S. Court and return before this Court to seek the Initial Recognition Order and Supplemental Order.

54. It is important for KidKraft and the Canadian Debtors to be protected by a stay of proceedings and from the potential exercise of enforcement rights in Canada pursuant to a Canadian court order. It is critical to the preservation of the value of the business in Canada and the Chapter 11 Debtors' overall efforts to proceed with the Chapter 11 Cases and the completion of a restructuring.

PART VII - PROPOSED NEXT HEARING

55. After the First Day Orders have been entered by the U.S. Court, KidKraft intends to return to this Court, in its capacity as Foreign Representative, to seek the Initial Recognition Order and Supplemental Order. As noted above, I, or another representative of KidKraft, will make an affidavit in support thereof.

PART VIII - NOTICE

56. This application has been brought on notice to counsel for Gordon Brothers, the Purchaser and the proposed Information Officer. The major stakeholders of the Chapter 11 Debtors are located outside of Canada and notice will be given to them within the Chapter 11 Cases.

SWORN BEFORE ME over
videoconference in accordance with the
*Administering Oath or Declaration Remotely
Regulation*, O. Reg 431/20, on May 10, 2024,
while I was located in the City of Toronto, in
the Province of Ontario, and the affiant was
located in Dallas in the State of Texas.



EMILIE DILLON

LSO # 85199L

Commissioner for Taking Affidavits
(or as may be)

GEOFFREY WALKER

THIS IS **EXHIBIT “B”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)

Court File No. CV-24-00720035-00CL

**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 KIDKRAFT, INC., SOLOWAVE DESIGN
HOLDINGS LIMITED, SOLOWAVE DESIGN INC., SOLOWAVE
INTERNATIONAL INC. AND SOLOWAVE DESIGN LP

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE
COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AMENDED

Applicant

**SECOND AFFIDAVIT OF GEOFFREY WALKER
(Initial Recognition Order and Supplemental Order)**

(Sworn May 15, 2024)

I, Geoffrey Walker, of the City of Dallas, in the State of Texas, MAKE OATH AND SAY:

1. I am the Chief Executive Officer and President of KidKraft, Inc. ("**KidKraft**", and together with its debtor and non-debtor affiliates, the "**Company**"). I joined the Company in 2019 and have served in my current role since that time.

2. As Chief Executive Officer and President of KidKraft, I am familiar with, and have personal knowledge regarding, the Chapter 11 Debtors' (defined below) businesses, day-to-day operations, financial affairs, and books and records, including those of Solowave Design Holdings Limited, Solowave International Inc. and Solowave Design Inc. (collectively, the "**Canadian Corporate Debtors**"), and Solowave Design LP (together with the Canadian Corporate Debtors, the "**Canadian Debtors**"). As such, I have personal knowledge of the matters deposed herein. Where I have relied on other sources of information, I have so stated and believe them to be true.

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In preparing this affidavit (the “**Second Affidavit**”), I have also consulted with the Company’s senior management team, and financial and legal advisors. The Company does not waive or intend to waive any applicable privilege by any statement in this Second Affidavit.

3. Capitalized terms used and not otherwise defined in this Second Affidavit have the meanings given to them in my initial affidavit sworn May 10, 2024 (the “**Initial Affidavit**”). Unless otherwise indicated, dollar amounts referenced in this Second Affidavit are references to United States Dollars.

4. This Second Affidavit supplements the Initial Affidavit and is sworn in support of an application by KidKraft in its capacity as the Foreign Representative (as defined below), for the following orders:

- (a) an order (the “**Initial Recognition Order**”), among other things:
 - (i) recognizing the Chapter 11 Cases (as defined below) in respect of KidKraft and the Canadian Debtors as “foreign main proceedings” pursuant to Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended (the “**CCAA**”); and
 - (ii) recognizing KidKraft as the “foreign representative” in respect of the Chapter 11 Cases of KidKraft and the Canadian Debtors; and

- (b) an order (the “**Supplemental Order**”), among other things:
 - (i) recognizing certain other First Day Orders (as defined below) issued by the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “**U.S. Court**”) in the Chapter 11 Cases, including the Foreign Representative Order (as defined below);

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- (ii) granting a stay of proceedings in respect of KidKraft and the Canadian Debtors and their respective directors and officers;
- (iii) appointing KSV Restructuring Inc. (“**KSV Restructuring**”) as the information officer in this proceeding (in such capacity, the “**Information Officer**”);
- (iv) granting a Court-ordered charge on the present and future assets, property and undertakings of KidKraft located in Canada and of the Canadian Debtors (the “**Canadian Property**”) to secure:
 - (A) the professional fees and disbursements incurred in respect of this proceeding by the Information Officer, its counsel and KidKraft and the Canadian Debtors’ Canadian counsel (up to a maximum amount of CAD\$750,000);
 - (B) the indemnity granted by KidKraft and the Canadian Debtors in favour of their respective directors and officers in respect of obligations and liabilities in Canada that they may incur as directors or officers after the commencement of this proceeding (up to a maximum amount of CAD\$100,000); and
 - (C) advances under a debtor-in-possession credit facility.

5. This Second Affidavit is organized into the following sections:

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PART I - OVERVIEW

6. On May 10, 2024 (the “**Petition Date**”), KidKraft, the Canadian Debtors, and six other debtors and debtors in possession (collectively, the “**Chapter 11 Debtors**”) filed voluntary petitions for relief (together, the “**Petitions**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code with the U.S. Court. The cases commenced by the Chapter 11 Debtors in the U.S. Court are referred to herein as the “**Chapter 11 Cases**”. The Chapter 11 Cases have been assigned to the Honourable Judge Michelle V. Larson.

7. Uncertified copies of the Petitions as filed were appended to the affidavit of Emilie Dillon, an associate lawyer with the law firm Osler, Hoskin & Harcourt LLP (“**Osler**”), Canadian counsel to the Chapter 11 Debtors, sworn May 10, 2024 as Exhibits “A” to “K” thereto. I am advised by the Chapter 11 Debtor’s U.S. counsel that certified copies of the Petitions have been obtained from the U.S. Court and are currently in transit to Osler, and will be provided to this Court as soon as they are available.

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8. I am advised by the Chapter 11 Debtors' U.S. counsel that a certified copy of the Foreign Representative Order has been obtained from the U.S. Court and is currently in transit to Osler, and will be provided to this Court as soon as it is available.

9. On May 10, 2024, the Chapter 11 Debtors filed several first day motions and applications, including a motion seeking the Foreign Representative Order, with the U.S. Court (collectively, the "**First Day Motions**").

10. Also on May 10, 2024, KidKraft, in its capacity as the proposed foreign representative of itself and the Canadian Debtors in respect of the Chapter 11 Cases (the "**Foreign Representative**"), brought an application before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") for an order (the "**Interim Stay Order**") pursuant to Part IV of the CCAA and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, among other things, granting a stay of proceedings in respect of KidKraft and the Canadian Debtors, and their respective directors and officers. The Interim Stay Order was necessary to create a direct stay in Canada, alongside the automatic stay of proceedings created under the U.S. Bankruptcy Code upon the electronic filing of the Petitions. A copy of the Interim Stay Order is attached hereto as **Exhibit "A"**.

11. On May 13, 2024, the U.S. Court heard the First Day Motions, including the following:

- (a) The "**Joint Administration Motion**": *Emergency Motion for Entry of an Order Directing Joint Administration of the Debtors' Chapter 11 Cases*;
- (b) The "**Claim Agent Retention Motion**": *Emergency Application for Entry of Order Appointing Stretto, Inc. as Claims, Noticing, and Solicitation Agent*;
- (c) The "**Employee Wages Motion**": *Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief*;

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- (d) The “**Foreign Representative Motion**”: *Emergency Motion for Entry of an Order (I) Authorizing KidKraft, Inc. to Act as Foreign Representative and (II) Granting Related Relief;*
- (e) The “**Cash Management Motion**”: *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts, (B) Continue Using Existing Checks and Business Forms, (C) Maintain Their Corporate Card Program, and (D) Continue Intercompany Transactions and (II) Granting Related Relief;*
- (f) The “**Insurance Motion**”: *Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Continue Their Prepetition Insurance Coverage and Satisfy Prepetition Obligations Related Thereto; (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Coverage on a Postpetition Basis in the Ordinary Course; and (C) Continue Their Prepetition Customs Bond Program and Satisfy Prepetition Obligations Related Thereto; (II) Modifying the Automatic Stay Solely With Respect to Workers’ Compensation Claims; and (III) Granting Related Relief;*
- (g) The “**Taxes and Fees Motion**”: *Motion for Entry of an Order (I) Authorizing the Debtors to Pay Certain Taxes and Fees and (II) Granting Related Relief.*
- (h) The “**Utilities Motion**”: *Emergency Motion for Entry of an Order (I) Approving the Debtors’ Proposed Adequate Assurance Payments for Future Utility Services; (II) Prohibiting Utility Companies from Altering, Discontinuing, or Refusing Services; (III) Approving the Debtors’ Proposed Procedures for Resolving Additional Adequate Assurance Requests; and (IV) Granting Related Relief;*
- (i) The “**Critical Vendors Motion**”: *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay (A) Critical Vendors, (B) Lien Claimants, and (C) 503(b)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief;*
- (j) The “**Customer Programs Motion**”: *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief; and*
- (k) The “**DIP Motion**”: *Emergency Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured*

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Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief.

12. In support of the First Day Motions, I submitted a declaration (the “**First Day Declaration**”) to the U.S. Court, a copy of which is attached hereto as **Exhibit “B”**.

13. As discussed further below, on May 13 and 14, 2024, the U.S. Court entered orders in respect of the First Day Motions listed above in paragraph 11 (the “**First Day Orders**”). The First Day Orders that KidKraft, as Foreign Representative, seeks recognition in Canada pursuant to the Supplemental Order are set out in further detail in Part III of this Second Affidavit.

14. Background information with respect to the Chapter 11 Debtors, including KidKraft and the Canadian Debtors, and the reasons for the commencement of the Chapter 11 Cases, are set out in the Initial Affidavit and the First Day Declaration.

PART II - ADDITIONAL INFORMATION REGARDING KIDKRAFT AND THE CANADIAN DEBTORS

15. The Initial Affidavit at Section II provides information regarding the Company’s business, including the business of the Canadian Debtors.

16. This section provides certain additional information regarding KidKraft and the Canadian Debtors and should be read in conjunction with Section II of the Initial Affidavit.

A. Cash Management System and Intercompany Transactions

17. The Chapter 11 Debtors and their non-debtor affiliates manage their cash, receivables, and payables, in the ordinary course of business, through a centralized cash management system (the “**Cash Management System**”). The Chapter 11 Debtors use the Cash Management System to efficiently collect, transfer, concentrate, and disburse funds generated from their operations. The

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Cash Management System also enables the Chapter 11 Debtors to monitor the collection and disbursement of funds and the administration of their bank accounts, which are maintained at JPMorgan Chase Bank, N.A. (“**JPMorgan**”), HSBC Bank USA, and China Merchants Bank (each, a “**Bank**,” and collectively, the “**Banks**”).

18. The Chapter 11 Debtors maintain accounting controls with respect to each of their bank accounts and are able to accurately trace the funds through their Cash Management System to ensure that all transactions are adequately documented and readily ascertainable, including in connection with the intercompany transactions more fully described below. The Chapter 11 Debtors will continue to maintain their books and records relating to the Cash Management System to the same extent such books and records were maintained prior to the Petition Date. Accordingly, the Chapter 11 Debtors will be able to accurately document, record, and track the transactions occurring within the Cash Management System for the benefit of their estates.

19. The Chapter 11 Debtors’ Cash Management System consists of a total of 16 bank accounts (collectively, the “**Bank Accounts**”), which are maintained at the Banks, held by either KidKraft, Inc., Solowave Design Corp, or Solowave Design LP.¹

20. KidKraft holds eight Bank Accounts in total, including a “**Main Operating Account**” with JPMorgan, which is primarily used for the day-to-day operating disbursements (automated clearing house transfers, wires, auto drafts) for KidKraft and its domestic affiliates, including taxes and other expenses. Funds are transferred to and from the various other Bank Accounts in the ordinary course on an as-needed basis. The Main Operating Account is subject to a deposit account

¹ Each of the Canadian Corporate Debtors has a bank account for each of their respective disbursements, which accounts are not part of the Cash Management System. These accounts generally had minimal activity. These accounts will be repurposed for the uses specified in the Cash Management Motion.

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control agreement in favor of GB Funding, LLC, in its capacity as the administrative agent under the Prepetition Credit Agreement (the “**Prepetition and DIP Agent**”).

21. Solowave Design LP holds four Bank Accounts at JPMorgan:

- (a) The “**SDL USD Factoring Account**”: This account is primarily used to collect receipts paid in USD from Solowave Design LP’s sales that are subject to the Solowave Receivables Sale Agreement (defined below). The SDL USD Factoring Account is subject to a deposit account control agreement in favor of Coface Finanz GmbH (“**Coface**”) and the Prepetition and DIP Agent.
- (b) The “**SDL USD Operating Account**”: This account is primarily used to collect receipts paid in USD on account of Solowave Design LP’s non-factored receivables. Unused amounts in the SDL USD Factoring Account are transferred into this account. The SDL USD Operating Account is subject to a deposit account control agreement in favor of the Prepetition and DIP Agent.
- (c) The “**SDL CAD Factoring Account**”: This account is primarily used to collect receipts paid in CAD from Solowave Design LP’s sales that are subject to the Solowave Receivables Sale Agreement. The SDL CAD Factoring Account is subject a deposit account control agreement in favor of Coface (defined below) and the Prepetition and DIP Agent.
- (d) The “**SDL CAD Operating Account**”: This account is primarily used to collect receipts paid in CAD on account of Solowave Design LP’s non-factored receivables. Unused amounts in the SDL CAD Factoring Account are transferred

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into this account. The SDL CAD Operating Account is subject to a deposit account control agreement in favor of the Administrative Agent.

22. As of the Petition Date, the Bank Accounts had a combined value of approximately \$3,510,000, with less than 10% being held in Solowave Design LP's Bank Accounts.

23. A more detailed description of each of the Bank Accounts, the relationship between them, and the general flow of funds in the Cash Management System is included in the Cash Management Motion, a copy of which is attached as **Exhibit "C"**.

24. In the ordinary course of business, the Chapter 11 Debtors maintain business relationships with each other and with certain of their non-debtor affiliates, conducting intercompany transactions from time-to-time that result in intercompany receivables and payables. The Chapter 11 Debtors track all fund transfers in their respective accounting systems through the centralized Cash Management System and can ascertain, trace, and account for all intercompany transactions and will continue to do so postpetition.

25. Among the Chapter 11 Debtors, intercompany transactions are made periodically to reimburse certain Chapter 11 Debtors for various expenditures associated with their businesses or to fund certain Chapter 11 Debtors' accounts in anticipation of certain upcoming expenditures, as needed. Transferring cash to the Main Operating Account allows the Chapter 11 Debtors to run their operations and financing activities from a centralized Bank Account. This system not only maximizes efficiency but also simplifies third-party interactions with the Chapter 11 Debtors as an enterprise.

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B. The Canadian Debtors' Integrated Operations with the U.S.

26. The Canadian Debtors are fully integrated with the Company's U.S. operations and managed by senior leadership from the U.S. In particular:

- (a) the Canadian Debtors are wholly-owned subsidiaries of KidKraft, a Delaware corporation;
- (b) each of the Canadian Corporate Debtors' directors and officers are U.S. residents and are directors or officers of KidKraft;
- (c) KidKraft and the Canadian Debtors' senior leadership is located in the U.S. and exercises primary strategic management and control of the Chapter 11 Debtors, including all of the Canadian Debtors;
- (d) Canadian sales make up approximately 7% of the Company's annual net revenue;
- (e) the Chapter 11 Debtors' only Employee in Canada (out of the Chapter 11 Debtors' 66 employees) is employed by KidKraft and not by any of the Canadian Debtors;
- (f) payroll processing for the one Canadian employee of KidKraft is processed in the U.S. through KidKraft's third-party payroll services provider (Ultimate Kronos Group, Inc.), directed by U.S.-based employees at KidKraft's headquarters in Dallas, Texas;
- (g) the controllers and administrators of all Bank Accounts, including Solowave Design LP's accounts, are not in Canada and are primarily based in the U.S.;

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- (h) the Canadian Debtors' overall financial position is managed on a consolidated basis by the Company's management team located in the U.S.;
- (i) the Chapter 11 Debtors (including the Canadian Debtors) operate an integrated, centralized Cash Management System to collect, transfer and disburse funds generated by their operations;
- (j) much of the Company's funded indebtedness is owed to U.S.-based lenders and governed by U.S. law; and
- (k) the Canadian Debtors primarily rely on the purchasing power and supplier relationships of the Chapter 11 Debtors in the U.S.

27. In summary, the Canadian Debtors are integrated members of the broader group of Chapter 11 Debtors that is centrally managed from an overall strategic and financial perspective by a management team in the U.S., with creditors looking to the parties in the U.S. for action on their contractual obligations.

C. Coface Matters

28. As set out in my Initial Affidavit, KidKraft and Solowave Design LP have entered into Receivables Sales Agreements dated August 4, 2021 and April 21, 2022, respectively, with Coface, pursuant to which Coface purchases accounts receivable from KidKraft and Solowave Design LP (the "**KidKraft Receivables Sale Agreement**" and the "**Solowave Receivables Sale Agreement**", respectively, and together, the "**Receivables Sale Agreements**"). On April 20, 2022, Coface registered financing statements pursuant to the *Personal Property Security Act* (Ontario) and the *Personal Property Security Act* (Alberta) against Solowave Design LP and Solowave

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Design Inc. (two of the Canadian Debtors). Coface's Canadian financing statements cover the purchased accounts receivable, funds in the SDL USD Factoring Account and the SDL CAD Factoring Account, and other security as provided for under the Solowave Receivables Sale Agreement.

29. Coface has first ranking security over the purchased accounts receivable under the Receivables Sales Agreements. The Receivables Sale Agreements each include the following provision granting security (capitalized terms as defined therein, emphasis added):

10.1 In the event that the sale of the Purchased Receivables and their Related Assets contemplated herein is for any reason *not deemed to be a true sale thereof* despite the parties' intentions, and in any event, as security for all of the obligations of [KidKraft / Solowave Design LP], [KidKraft / Solowave Design LP] grants to [Coface] ...

30. As this provision indicates, Coface's security over the accounts receivable acts as a backstop in the event that its purchases of accounts receivable are found to not be "true sales". The Chapter 11 Debtors do not dispute that the sales of accounts receivable to Coface under the Receivables Sale Agreements were "true sales". Further, the Chapter 11 Debtors do not expect that any receivables generated postpetition will be subject to the Receivables Sale Agreements. Copies of the KidKraft Receivables Sale Agreement and the Solowave Receivables Sale Agreement are attached as **Exhibits "D" and "E"**, respectively.

D. Creditors of the Canadian Debtors and the Canadian Business

31. As described in the Initial Affidavit, the Canadian Debtors have certain liabilities in addition to their obligations as guarantors of the Chapter 11 Debtors' indebtedness under the Prepetition Credit Agreement. Based on a preliminary trial balance for the Canadian Debtors for

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the period ending April 30, 2024, as of that date, the Canadian Debtors (on a consolidated basis) had total liabilities of approximately CAD\$998,000, as follows (in approximate amounts):

- (a) Accounts payable: CAD\$834,500
- (b) Canadian sales tax accruals: CAD\$27,800
- (c) Canadian income tax accruals: CAD\$136,000.

32. The approximately CAD\$834,500 in accounts payable includes the following:²
- (a) approximately CAD\$749,000 was owing to ShingFai, a Chinese supplier;
 - (b) approximately CAD\$74,000 was accounts receivables refunds owing to one of the Canadian Debtors' Canadian customers (Costco); and
 - (c) approximately CAD\$10,500 was owing to FedEx Canada, a former supplier of logistics services to the Canadian Debtors.

33. In addition, as of April 30, 2024, KidKraft owed certain amounts to Mainfreight, the third-party logistics provider for the Canadian business. Immediately prior to the Petition Date, KidKraft made payment to Mainfreight to bring its account current.

PART III - RELIEF SOUGHT

A. Recognition of Foreign Main Proceedings

34. The Foreign Representative seeks recognition of the Chapter 11 Cases as “foreign main proceedings” pursuant to Part IV of the CCAA.

35. Other than the Canadian Debtors, the remaining Chapter 11 Debtors are incorporated or formed under U.S. law, have their registered head offices and corporate headquarters in the U.S.,

² Amounts below CAD\$2,000 are not included.

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carry out their businesses in the U.S., and have all, or substantially all, of their assets located in the U.S.

36. As described above, the Canadian Debtors are managed on a consolidated basis and are wholly reliant on the Chapter 11 Debtors for corporate, administrative, and back-office support. The Canadian Corporate Debtors have a registered office address in Canada (1565 Carling Avenue, #400, Ottawa, Ontario) through the services of a registered agent CT Corporation System for compliance purposes only. The Canadian operations are dependent on and integrated with the U.S. operations. The Canadian Debtors would not be able to function independently without the corporate functions performed by the Chapter 11 Debtors in the U.S.

37. Other than the Chapter 11 Proceedings, no other foreign proceeding (as defined in subsection 45(1) of the CCAA) in respect of KidKraft and the Canadian Debtors has been commenced.

B. Stay of Proceedings in Canada

38. By operation of the U.S. Bankruptcy Code, the Chapter 11 Debtors obtained the benefit of an automatic stay of proceedings upon filing the Petitions with the U.S. Court.

39. In issuing the Interim Stay Order, this Court granted a stay of proceedings in favour of KidKraft and the Canadian Debtors (including Solowave Design LP) and their respective officers and directors, in respect of their business and property in Canada.

40. In the proposed Initial Recognition Order and Supplemental Order, the Foreign Representative is seeking a similar stay of proceedings and extension of protections and authorizations granted pursuant to the Interim Stay Order.

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41. As set out in the Initial Affidavit, it is important for the Canadian Debtors to be protected by a stay of proceedings and from enforcement rights in Canada pursuant to a Canadian court order. This is critical to the preservation of the value of the business in Canada and the Chapter 11 Debtors' overall efforts to proceed with the Chapter 11 Cases and the completion of the Sale Transaction.

C. Recognition of Certain U.S. Orders

42. Pursuant to the proposed Supplemental Order, the Foreign Representative seeks recognition by this Court of the following First Day Orders that have been entered by the U.S. Court.

(a) Foreign Representative Order

43. A copy of the entered *Order (I) Authorizing KidKraft, Inc. to Act as Foreign Representative, and (II) Granting Related Relief* (the "**Foreign Representative Order**"), provided by the Chapter 11 Debtors' U.S. counsel, is attached hereto as **Exhibit "F"**.

44. The Foreign Representative Order authorizes KidKraft to act as the Foreign Representative on behalf of itself and the Canadian Debtors in these CCAA Part IV proceedings. I am advised by Justin Kanji of Osler that the form of order requested is similar to such orders granted in other cross-border proceedings.

45. I am advised by the Chapter 11 Debtors' U.S. counsel that a certified copy of the Foreign Representative Order has been obtained from the U.S. Court and is currently in transit to Osler, and will be provided to this Court as soon as it is available.

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(b) Joint Administration Order

46. A copy of the entered *Order Directing Joint Administration of the Debtors' Chapter 11 Cases* (the “**Joint Administration Order**”) is attached hereto as **Exhibit “G”**.

47. The Joint Administration Order consolidates the administration of the Chapter 11 Cases for procedural purposes only, pursuant to the terms and conditions as set out therein.

48. Given the integrated nature of the operations of the Chapter 11 Debtors, including the Canadian Debtors, joint administration of the Chapter 11 Cases provides significant administrative convenience without harming the substantive rights of any party in interest, and reduces fees and costs by avoiding duplicative filings and objections.

(c) Claims Agent Retention Order

49. A copy of the entered *Order Authorizing the Employment and Retention of Stretto, Inc. as Claims, Noticing, and Solicitation Agent* (the “**Claims Agent Retention Order**”) is attached hereto as **Exhibit “H”**.

50. The Claims Agent Retention Order authorizes Stretto Inc. (“**Stretto**”) — a chapter 11 administrator comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex Chapter 11 cases — to act as the Chapter 11 Debtors’ claims, noticing, and solicitation agent in the Chapter 11 Cases. The work to be performed by Stretto will include, among other things:

- (a) assisting the Chapter 11 Debtors with the preparation and distribution of all required notices and documents in accordance with the U.S. Bankruptcy Code and

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the U.S. Bankruptcy Rules in the form and manner directed by the Chapter 11 Debtors and/or the U.S. Court;

- (b) maintaining an official copy of the Chapter 11 Debtors' schedules of assets and liabilities and statements of financial affairs, listing the Chapter 11 Debtors' known creditors and the amounts owed thereto;
- (c) assisting in the dissemination of information to the public and responding to requests for administrative information regarding the Chapter 11 Cases as directed by the Chapter 11 Debtors or the U.S. Court;
- (d) assisting the Chapter 11 Debtors with plan solicitation services; and
- (e) managing and coordinating any distributions pursuant to a chapter 11 plan.

51. I believe Stretto's services, as authorized by the Claims Agent Retention Order, will ensure the efficient, orderly and fair treatment of creditors, equity security holders, and all parties in interest in the Chapter 11 Cases including with respect to the Canadian Debtors and the business in Canada.

(d) Interim Customer Programs Order

52. A copy of the entered *Interim Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief* (the "**Interim Customer Programs Order**") is attached hereto as **Exhibit "I"**.

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53. The Interim Customer Programs Order, among other things, authorizes the Chapter 11 Debtors to: (a) maintain and administer certain of their customer programs, promotions, and practices (the “**Customer Programs**”); and (b) honour certain prepetition obligations related thereto.

54. The Chapter 11 Debtors have developed their brand and designed various marketing strategies to generate business in the face of sophisticated competition. Among these strategies are the Customer Programs, which are designed to enhance revenues by, among other things, encouraging repeat business and developing new customer relationships. As of the Petition Date, Customer Programs consist of various discounts, rebates, returns, and markdowns, all of which are considered when determining the transaction price. The Customer Programs offered are unique to each customer and may be contractual or discretionary depending on the customer and the circumstances. In general, the Chapter 11 Debtors offer (i) discounts that range from 0.5 percent to 10 percent of sales; (ii) rebates that range from 1 percent to 6 percent of sales; (iii) allowances to cover returns that range from 1 percent to 5 percent of sales; and (iv) markdowns that range from 0.5 percent to 5 percent of sales, in each case to a given customer. The majority of these Customer Programs are booked as deductions from invoices, and the remainder are paid through invoices received from customers.

55. The success of the Chapter 11 Debtors’ businesses is highly dependent upon the loyalty of the Chapter 11 Debtors’ customers. Consequently, continuation of the Customer Programs is vital to maintaining and maximizing the value of the Chapter 11 Debtors’ estates. If the Chapter 11 Debtors are unable to honor Customer Program obligations, the Chapter 11 Debtors’ brand could be immediately and irreparably harmed. Continued use of the Customer Programs, on the other

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hand, will enable the Chapter 11 Debtors to protect their customer base and maximize the value of their estates.

56. Once a final version of the Interim Customer Programs Order is obtained and issued in the U.S. Court, the Foreign Representative intends to return to this Court to seek recognition of such order.

(e) Insurance Order

57. A copy of the entered *Order (I) Authorizing the Debtors to (A) Continue Their Prepetition Insurance Coverage and Satisfy Prepetition Obligations Related Thereto; (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Coverage on a Postpetition Basis in the Ordinary Course; and (C) Continue Their Prepetition Customs Bond Program and Satisfy Prepetition Obligations Related Thereto; (II) Modifying the Automatic Stay Solely With Respect to Workers' Compensation Claims; and (III) Granting Related Relief* (the “**Insurance Order**”) is attached hereto as **Exhibit “J”**.

58. The Insurance Order authorizes the Chapter 11 Debtors to maintain their existing insurance policies, pay prepetition obligations related thereto upon entry of the order renew, amend, supplement, extend, or purchase new insurance policies, and maintain their Customs Bond on a postpetition basis in the ordinary course of business.

59. It is essential that the Chapter 11 Debtors have the ability to continue or renew their insurance policies and enter into new insurance policies or agreements to preserve the value of their businesses. In many cases, regulations, laws, and contract provisions that govern the Chapter 11 Debtors' commercial activities require the types of coverage provided under the insurance policies.

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60. Further, the Chapter 11 Debtors, in the ordinary course of business, are required to maintain one or more bonds to assure the United States Customs and Border Protection Agency of their ability to pay applicable duties, taxes, and fees on account of their imports. As of the Petition Date, the Chapter 11 Debtors maintain one customs bond in the bond amount of approximately \$400,000 (the “**Customs Bond**”). Failure to provide, maintain, or timely replace the Customs Bond may prevent the Chapter 11 Debtors from importing essential products, which may create an interruption in the Chapter 11 Debtors’ business operations, and thus it is essential that the Chapter 11 Debtors be authorized to pay any prepetition and postpetition amounts in the ordinary course of business associated with the continuation, renewal, or extension of the Customs Bond.

(f) Utilities Order

61. A copy of the entered *Order (I) Approving the Debtors’ Proposed Adequate Assurance Payments for Future Utility Services; (II) Prohibiting Utility Companies from Altering, Discontinuing, or Refusing Services; (III) Approving the Debtors’ Proposed Procedures for Resolving Additional Adequate Assurance Requests; and (IV) Granting Related Relief* (the “**Utilities Order**”) is attached hereto as **Exhibit “K”**.

62. The Utilities Order, among other things: (a) approves the Chapter 11 Debtors’ proposed adequate assurance of payment for future utility services; (b) prohibits utility providers from altering, refusing, or discontinuing services; and (c) approves the Chapter 11 Debtors’ proposed procedures for resolving adequate assurance requests.

63. Certain companies (the “**Utility Companies**”) provide the Chapter 11 Debtors with traditional utility services (the “**Utility Services**”), such as electricity, gas, water, waste disposal, telecommunications, internet, and other similar services that the Chapter 11 Debtors utilize in the

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ordinary course of business and are necessary for the continued operation of their day-to-day affairs. Uninterrupted Utility Services are critical to the Chapter 11 Debtors' ability to operate and maintain the value of their businesses while maximizing value for the benefit of their estates. Should any Utility Company alter, refuse, or discontinue service, even for a brief period, the Chapter 11 Debtors' business operations could be significantly disrupted, which could immediately and irreparably harm and jeopardize the Chapter 11 Debtors' operations and strategic objectives. Accordingly, it is essential that the Utility Services continue uninterrupted during the Chapter 11 Cases.

(g) Taxes and Fees Order

64. A copy of the entered *Order (I) Authorizing the Debtors to Pay Certain Taxes and Fees and (II) Granting Related Relief* (the "**Taxes and Fees Order**") is attached hereto as **Exhibit "L"**.

65. The Taxes and Fees order authorizes the Chapter 11 Debtors to remit and pay (or use tax credits to offset) certain accrued and outstanding prepetition taxes and fees that will become payable during the pendency of the Chapter 11 Cases in the ordinary course of business.

66. In the ordinary course of business, the Chapter 11 Debtors collect, withhold, or incur property taxes, franchise taxes, and sales, use, and excise taxes (collectively, the "**Taxes and Fees**"). The Chapter 11 Debtors remit and pay the Taxes and Fees to various state, local, and national governments, including taxing authorities in the U.S. and Canada (collectively, the "**Authorities**"). The Chapter 11 Debtors remit and pay the Taxes and Fees through cheques and electronic funds transfers that are processed through their Banks and other financial institutions. The Chapter 11 Debtors may also receive tax credits from time-to-time for overpayments or refunds in respect of the Taxes and Fees, which the Chapter 11 Debtors generally use to offset

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against future Taxes and Fees or have the amount of such credits refunded to the Chapter 11 Debtors. As of the Petition Date, the Chapter 11 Debtors estimate that approximately \$292,000 in Taxes and Fees is accrued and is outstanding (approximately CAD\$26,000 in Canada), approximately \$144,000 of which will become due and payable within the first 21 days after the Petition Date.

67. That the payment of the Taxes and Fees, including by the Canadian Debtors, is necessary to avoid potential administrative difficulties is unquestionable. If the Taxes and Fees are not paid, the Authorities may attempt to take precipitous action, including additional state audits, lien filings, and lift stay motions. Only the prompt and regular payment of the Taxes and Fees will avoid these and other unnecessary governmental actions.

(h) Interim Critical Vendors Order

68. A copy of the entered *Interim Order (I) Authorizing the Debtors to Pay (A) Critical Vendors, (B) Lien Claimants, and (C) 503(b)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief* (the “**Interim Critical Vendors Order**”) is attached hereto as **Exhibit “M”**.

69. The Interim Critical Vendors Order, among others things, authorizes the Chapter 11 Debtors to pay in the ordinary course of business, based on their sound business judgment, prepetition amounts owed to: (a) critical vendors; (b) lien claimants, and (c) vendors from whom the Chapter 11 Debtors received goods within 20 days before the Petition Date in the ordinary course of business (collectively, the “**Vendors**,” and the Vendors’ prepetition claims, collectively, the “**Vendor Claims**”). The Interim Critical Vendors Order also confirms the administrative expense priority status and treatment of the Chapter 11 Debtors’ outstanding orders.

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70. The Chapter 11 Debtors rely on continuing access to, and relationships with, the Vendors, which provide the Chapter 11 Debtors with goods and services that are critical to their ongoing business operations, including software and internet services, marketing and brand awareness services, and shipping services, among others. Any disruption in the Chapter 11 Debtors' access to these services would have significant and detrimental economic and operational impacts on the Chapter 11 Debtors' businesses.

71. Accordingly, it is critical that the Chapter 11 Debtors, including the Canadian Debtors, pay certain of the Vendor Claims so that the Chapter 11 Debtors, including the Canadian Debtors, can maintain the going concern value of the Chapter 11 Debtors' business and minimizing operational degradation as they work to effect a comprehensive reorganization of their business under Chapter 11 of the U.S. Bankruptcy Code.

(i) Interim Cash Management Order

72. A copy of the entered *Interim Order (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts, (B) Continue Using Existing Checks and Business Forms, (C) Maintain Their Corporate Card Program, and (D) Continue Intercompany Transactions and (II) Granting Related Relief* (the "**Interim Cash Management Order**") is attached hereto as **Exhibit "N"**.

73. The Interim Cash Management Order, among other things, authorizes the Chapter 11 Debtors to: (a) continue to operate their Cash Management System and maintain existing Bank Accounts; (b) continue using their existing business forms and cheques; (c) maintain their corporate card program; and (d) continue to engage in intercompany transactions.

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74. The Canadian Debtors are dependent on the continued operation of the Cash Management System (as described above) to collect, transfer, and disburse funds and to facilitate cash monitoring, forecasting, and reporting. The Canadian Debtors' continued access to the Cash Management System is important to meet immediate-term obligations and preserve the value of the business in Canada. Any disruption to the Cash Management System could have an immediate and significant effect on the Canadian Debtors to the detriment of all stakeholders. The Interim Cash Management Order in the Chapter 11 Cases addresses these issues. Further, the Interim Cash Management Order ensures that the Chapter 11 Debtors can (and will) accurately document, record, and track postpetition transactions occurring within the Cash Management System, for the benefit of their estates.

(j) Employee Wages Order

75. A copy of the entered *Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief* (the "**Employee Wages Order**") is attached hereto as **Exhibit "O"**.

76. The Employee Wages Order, among other things, authorizes the Chapter 11 Debtors to:

- (a) pay prepetition wages, salaries, other compensation, and reimbursable expenses; and
- (b) continue benefits programs.

77. The Chapter 11 Debtors' employees (the "**Employees**"), including the one Employee of KidKraft resident in Canada, perform a wide variety of functions that support the Chapter 11 Debtors' operations and will be critical to the administration of the Chapter 11 Cases and to maximizing the value of the Chapter 11 Debtors' estates. Their skills, knowledge, and

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understanding of the Chapter 11 Debtors' operations are essential to preserving operational stability and efficiency during the Chapter 11 Cases. Without the continued, uninterrupted services of the Employees, the Chapter 11 Debtors' business operations will suffer immediate and irreparable harm.

78. The Employee Wages Order authorizes the Chapter 11 Debtors to continue their prepetition compensation and benefits programs in the ordinary course of business and consistent with past practices. The Employee Wages Order also authorizes the Chapter 11 Debtors to continue paying wages to Employees of their non-Chapter 11 Debtor subsidiaries in China in the ordinary course of business on a postpetition basis, as such Employees have skills and knowledge of the Chapter 11 Debtors' operations in China that will be essential to keeping the Chapter 11 Debtors' operations running during the course of the Chapter 11 Cases.

(k) Interim DIP Order

79. A copy of the entered *Interim Order (I) Authorizing Debtors and Debtors in Possession to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "**Interim DIP Order**") is attached hereto as **Exhibit "P"**.

80. As described in Part III of the Initial Affidavit, the Chapter 11 Debtors' funded secured debt arises from the Prepetition Credit Agreement, which was most recently amended: (a) on January 31, 2024 by the Fifth Amendment in connection with the Debt Sale to 1903 Partners, LLC (the "**Prepetition and DIP Lender**", and together with the Prepetition and DIP Agent, "**Gordon**

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Brothers”), which increased the available priority revolving commitments to \$26.8 million and extended the maturity of the term loans under the Prepetition Credit Agreement from June 30, 2023, to June 30, 2024; and (b) on May 9, 2024 by the Sixth Amendment which increased the total available priority revolving commitments to \$31.5 million. All of the Chapter 11 Debtors’ cash on hand as of the Petition Date (the “**Cash Collateral**”) and any proceeds of the of the Chapter 11 Debtors’ assets and property other than Excluded Assets, Excluded Receivables and Consumer Goods (as each such term is defined in the Prepetition Credit Agreement) are subject to the first ranking liens of the Gordon Brothers.

81. The Chapter 11 Debtors’ postpetition operations in the near-term will not generate sufficient cash to continue operations in the ordinary course while funding the expenses associated with the Chapter 11 Cases and these CCAA Part IV proceedings. Access to cash is essential to ensure the viability of the Company as a going concern and to preserve the value of the Chapter 11 Debtors’ estates. The harm caused by a failure to meet liquidity needs could destabilize the Company’s business operations and jeopardize the Sale Transaction to the Purchaser, which is described in Part IV of the Initial Affidavit.

82. Accordingly, the Chapter 11 Debtors require immediate access to debtor-in-possession financing and authority to use cash collateral to maintain sufficient liquidity to continue to operate and consummate the Sale Transaction to maximize value for their stakeholders. Pursuant to the restructuring support agreement (“**RSA**”) entered into on April 25, 2024 by the Chapter 11 Debtors, Gordon Brothers, MidOcean and the Purchaser, among other things, Gordon Brothers agreed to provide such debtor-in-possession financing (the “**DIP Facility**”). The RSA sets forth the commitments of the parties to implement the proposed Sale Transaction through the Plan, including the DIP Facility in accordance with a term sheet (the “**DIP Term Sheet**”). A copy of the

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RSA is attached as Exhibit “B” to the First Day Declaration, which is attached hereto as **Exhibit “B”**. A copy of the DIP Term Sheet is attached as Exhibit “A” to the Interim DIP Order, which is attached hereto as **Exhibit “P”**.

83. The Interim DIP Order, among other things authorizes: (a) KidKraft as borrower to receive a senior secured superpriority multi-draw debtor-in-possession term loan credit facility (the DIP Facility) from the Prepetition and DIP Lender on the terms set forth in the DIP Term Sheet and in accordance with an approved budget (included as Exhibit “B” to the Interim DIP Order); and (b) the Chapter 11 Debtors to use, on a consensual basis, the Cash Collateral of the Gordon Brothers under the Prepetition Credit Agreement.

84. Each of the Canadian Debtors, as well as other affiliates of KidKraft, are guarantors and pledgors under the DIP Facility.

85. The DIP Facility consists of an aggregate principal amount of:

- (a) \$10.5 million, consisting of (i) \$4.0 million of interim commitment (available upon entry of the Interim DIP Order) (the “**Interim DIP Commitment**”) and (ii) an incremental \$6.5 million of final commitment (available upon entry of a final order) (the “**Final DIP Commitment**”, and together, the “**New Money DIP Loans**”); and
- (b) \$23.3 million of roll-up loans (the “**Limited Roll-Up**”), plus the consensual use of the Cash Collateral.

86. Given that substantially all of the Chapter 11 Debtors’ unrestricted cash is Cash Collateral, the Chapter 11 Debtors need access to such Cash Collateral and the proceeds of the DIP Facility to operate their businesses in the ordinary course during these Chapter 11 Cases.

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87. In exchange for this essential liquidity provided by the New Money DIP Loans and the Cash Collateral, the Chapter 11 Debtors agreed to certain reasonable protections for the Gordon Brothers, including superpriority liens on collateral, payment of interest and fees on amounts borrowed, and a limited “roll-up” of approximately \$23.3 million (the “**Limited Roll-Up Amount**”) of prepetition financing under the Prepetition Credit Agreement which provided the Chapter 11 Debtors with a liquidity runway to file the Chapter 11 Cases and maximize the value of their estates. The proposed Limited Roll-Up Amount is limited to the new capital that the prepetition secured parties, Gordon Brothers, provided the Chapter 11 Debtors after the Debt Sale closed on January 31, 2024. Importantly, this liquidity provided a runway for the Chapter 11 Debtors to commence the sale process, which in turn led to the Purchaser’s offer and the proposed Sale Transaction and has allowed the Chapter 11 Debtors to maintain their operations and preserve the value of their estates leading up to the Chapter 11 Cases. The Limited Roll-Up is a material component of the structure of the DIP Facility and was required by the Prepetition and DIP Lender as a condition to its commitment to provide postpetition financing and its consent to the Chapter 11 Debtors’ use of Cash Collateral. Additionally, the proposed Limited Roll-Up is reasonable in light of the ratio of new money provided by the Prepetition and DIP Lender to the Limited Roll-Up Amount.

88. The proceeds from the proposed DIP Facility will be used for, among other things, making payments integral to the Chapter 11 Debtors’ business operations, paying administrative expenses associated with the Chapter 11 Cases and these CCAA Part IV proceedings, and satisfying working capital needs in the ordinary course of business. Moreover, the liquidity to be provided under the DIP Facility, combined with access to existing Cash Collateral, will enable the Chapter 11 Debtors to: (i) fund their operations during the course of the Chapter 11 Cases and these CCAA Part IV

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proceedings, including the administrative costs; (ii) ensure that value is preserved during the course of the Chapter 11 Debtors' Chapter 11 Cases; and (iii) consummate the Sale Transaction and confirm the Plan to maximize value for the Chapter 11 Debtors' estates.

89. Because the Chapter 11 Debtors will continue their pre-filing Cash Management System, funds available under the DIP Facility will indirectly flow to the Canadian Debtors to enable their continued operation during these CCAA Part IV proceedings.

90. I believe that the amount available to draw under the DIP Facility upon the entry of the Interim DIP Order addresses the Chapter 11 Debtors' (including the Canadian Debtors') immediate liquidity needs during the case and prior to the U.S. Court approving the DIP Facility on a final basis.

91. The DIP Facility is the product of arm's-length negotiations and represents the best available option for the Chapter 11 Debtors and will benefit all parties in interest. Prior to the Petition Date, the Chapter 11 Debtors and their advisors contacted other parties to seek proposals for third-party postpetition financing. No potential lenders were willing to provide financing on an unsecured or junior lien basis. Financing on a postpetition basis is not otherwise available and is not available on terms more favourable than the terms contained in the DIP Facility.

92. The amounts owing by the Chapter 11 Debtors under the DIP Facility are proposed to be secured in Canada by the DIP Charge (defined below) on the Canadian Property, ranking in priority to all other secured and unsecured claims in Canada, other than the Administration Charge and the D&O Charge (each as defined below), and subject to the relative priority of liens as set forth in the Interim DIP Order.

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93. The Chapter 11 Debtors do not dispute that the sales of accounts receivable to Coface under the Receivables Sales Agreements were “true sales”. Accordingly, the relief granted under the Interim DIP Order will not materially prejudice Coface as there is no dispute as to the priority of its liens on its separate collateral, as such receivables are the property of Coface and not the Chapter 11 Debtors.

94. I understand that KSV Restructuring, in its capacity as the proposed Information Officer, will be filing a pre-appointment report to the Court that will, among other things, include an analysis of the attributes of the DIP Facility, including its costs and the Limited Roll-Up feature, and the proposed Information Officer’s conclusion that the DIP Facility is reasonable and appropriate in the circumstances.

95. The Interim DIP Order only authorizes the borrowing of the New Money DIP Loans up to an aggregate amount equal to the Interim DIP Commitment. Once a final order in respect of the DIP Facility — which provides for the borrowing of the Final DIP Commitment and the Limited Roll-Up Amount — is obtained and issued in the U.S. Court, the Foreign Representative intends to return to this Court to seek recognition of such order.

96. I am advised by the Chapter 11 Debtors’ U.S. counsel and believe that although the U.S. Trustee for the Northern District of Texas filed an objection to the entry of the Interim DIP Order, these issues were either resolved consensually or through a revised form of order, which was consistent with the rulings of the U.S. Court and entered as the Interim DIP Order, including that the Limited Roll-Up Amount be subject to approval at the second day hearing in the U.S. Court.

97. Additional details about the DIP Facility and the Interim DIP Order are included in the DIP Motion, a copy of which is attached as **Exhibit “Q”**.

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D. Appointment of Information Officer

98. As part of its application, the Foreign Representative is seeking to appoint KSV Restructuring as the Information Officer in this proceeding. KSV Restructuring is a licensed trustee in bankruptcy in Canada and its principals have acted as an information officer in several previous ancillary proceedings (both under Part IV of the CCAA as well as the former section 18.6 of the CCAA).

99. KSV Restructuring has consented to acting as Information Officer in this proceeding. A copy of KSV Restructuring's consent to act as Information Officer is attached hereto as **Exhibit "R"**.

E. Administration Charge

100. The proposed Supplemental Order provides that the Information Officer, along with its counsel, and KidKraft and the Canadian Debtors' Canadian counsel will be granted an administration charge with respect to their fees and disbursements up to a maximum amount of CAD\$750,000 (the "**Administration Charge**") on the Canadian Property. The Administration Charge is proposed to have first priority over all other charges on the Canadian Property.

101. I believe the amount of the Administration Charge to be reasonable in the circumstances, having regard to the size and complexity of these proceedings and the roles that will be required of the proposed Information Officer, its legal counsel, and KidKraft and the Canadian Debtors' Canadian counsel.

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F. D&O Charge

102. I am advised by Justin Kanji of Osler and believe that, in certain circumstances, directors can be held liable for certain obligations of a company owing to employees and government entities, which may include unpaid wages and vacation pay, together with unremitted retail sales, goods and services, and harmonized sales taxes.

103. It is my understanding that the directors and officers of the Canadian Corporate Debtors (and by extension, in effect, Solowave Design LP) are potential beneficiaries of director and officer liability insurance maintained by the Company (the “**D&O Insurance**”) with an aggregate coverage limit of \$21 million. While the D&O Insurance insures directors and officers of the Canadian Corporate Debtors (and by extension, in effect, Solowave Design LP) for certain claims that may arise against them in such capacity as directors and/or officers, that coverage is not absolute. Rather, it is subject to several exclusions and limitations which may result in there being no coverage or insufficient coverage for potential liabilities. It is unclear whether the D&O Insurance provides sufficient coverage against the potential liability that the directors and officers of the Canadian Corporate Debtors (and by extension, in effect, of Solowave Design LP) could incur during these CCAA Part IV proceedings.

104. In light of the potential liabilities and the potential insufficiency of available insurance and the need for the continued service of the directors and officers of the Canadian Corporate Debtors (and by extension, in effect, of Solowave Design LP) in this proceeding, KidKraft, as the Foreign Representative, seeks the granting of a charge on the property and assets of the Canadian Debtors in favour of the directors and officers of the Canadian Corporate Debtors (and by extension, in effect, Solowave Design LP) in the maximum amount of CAD \$100,000 (the “**D&O Charge**”).

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105. The D&O Charge is necessary to secure the indemnity obligations of KidKraft and the Canadian Debtors to their directors and officers in respect of obligations and liabilities that such directors and officers may incur during this proceeding in their capacities as directors and officers. The D&O Charge would only be relied upon to the extent of the insufficiency of the existing D&O Insurance in covering any exposure of the directors and officers of the Canadian Debtors (and by extension, in effect, of Solowave Design LP).

106. The D&O Charge is proposed to rank in priority to all other secured and unsecured claims, other than the Administration Charge over the Canadian Property.

107. The amount of the proposed D&O Charge has been estimated, in consultation with the proposed Information Officer, with reference to the Canadian Debtors' federal and provincial tax liability exposure. I believe the amount of the proposed D&O Charge to be reasonable in the circumstances.

G. DIP Charge

108. The amounts owing by the Chapter 11 Debtors under the DIP Facility are proposed to be secured by, among other things, Court-ordered charges on the Canadian Property that rank in priority to all secured and unsecured claims and are subject to the relative priority of liens as set forth in the Interim DIP Order on the Canadian Property, but subordinate to the proposed Administration Charge and D&O Charge (the "**DIP Charge**").

PART IV - CONCLUSION

109. I believe that the relief sought in the proposed Initial Recognition Order and Supplemental Order is necessary to protect and preserve the operations and value of the Company's business in Canada, while the Chapter 11 Debtors, including the Canadian Debtors, pursue a comprehensive

and coordinated restructuring in the Chapter 11 Cases, with a view to emerging as a strong and sustainable enterprise for the benefit of a broad range of stakeholders.

SWORN BEFORE ME over videoconference in accordance with the *Administering Oath or Declaration Remotely Regulation*, O. Reg 431/20, on May 15, 2024, while I was located in the City of Toronto, in the Province of Ontario, and the affiant was located in Dallas in the State of Texas.



EMILIE DILLON
Commissioner for Taking Affidavits
(or as may be)



GEOFFREY WALKER

THIS IS **EXHIBIT “C”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)



Court File No. CV-24-00720035-00CL

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

THE HONOURABLE)
JUSTICE CAVANAGH)
FRIDAY, THE 17TH
DAY OF MAY, 2024

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

**AND IN THE MATTER OF KIDKRAFT, INC., SOLOWAVE DESIGN HOLDINGS
LIMITED., SOLOWAVE DESIGN INC., SOLOWAVE INTERNATIONAL INC. AND
SOLOWAVE DESIGN LP**

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

**INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)**

THIS APPLICATION, made pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") by KidKraft, Inc. ("**KidKraft**"), in its capacity as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of the proceedings commenced in the United States Bankruptcy Court for the Northern District of Texas pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**") by KidKraft, Solowave Design Holdings Limited, Solowave Design Inc., Solowave International Inc. and Solowave Design LP (collectively, the "**Chapter 11 Debtors**"), for an Order substantially in the form enclosed in the Application Record, was heard this day by judicial videoconference in Toronto, Ontario.

ON READING the Notice of Application, the affidavit of Geoff Walker affirmed May 10, 2024, the affidavit of Geoff Walker affirmed May 15, 2024, the preliminary report of KSV Restructuring Inc., in its capacity as proposed information officer (the “**Proposed Information Officer**”) dated May 16, 2024, each filed, and upon being provided with copies of the documents required by section 46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order (Foreign Main Proceeding), a Supplemental Order (Foreign Main Proceeding) is being sought,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the Proposed Information Officer, and counsel appearing on the participant information form, no one else appearing although duly served as appears from the affidavit of service of Emilie Dillon sworn May 16, 2024.

SERVICE

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

FOREIGN REPRESENTATIVE

2. **THIS COURT ORDERS** that the Foreign Representative is the “foreign representative” as defined in section 45 of the CCAA in respect of the Foreign Proceeding.

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

3. **THIS COURT ORDERS** that the centre of its main interests for each of the Chapter 11 Debtors is the United States of America and that the Foreign Proceeding is hereby recognized as a “foreign main proceeding” as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:
- (a) all proceedings taken or that might be taken against any Chapter 11 Debtor under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 or the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, are stayed;
 - (b) further proceedings in any action, suit or proceeding against any Chapter 11 Debtor are restrained; and
 - (c) the commencement of any action, suit or proceeding against any Chapter 11 Debtor is prohibited.

NO SALE OF PROPERTY

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Chapter 11 Debtors is prohibited from selling or otherwise disposing of:
- (a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and
 - (b) any of its other property in Canada.

GENERAL

6. **THIS COURT ORDERS** that any party may, from time to time, apply to this Court for such further or other relief as it may advise, including for directions in respect of this Order.
7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States of America or any other foreign jurisdiction, to give effect to this Order and to assist the Chapter 11 Debtors, the Foreign Representative and their counsel and agents in carrying out the terms of this Order. All courts, tribunals, and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to any of the Chapter 11 Debtors and the Foreign Representative as may be necessary or desirable to give effect to this Order, or to assist any of the Chapter 11 Debtors and the Foreign Representative and their agents in carrying out the terms of this Order.
8. **THIS COURT ORDERS** that the Interim Stay Order of this Court dated May 10, 2024 (the “**Interim Stay Order**”) shall be of no further force and effect once this Order becomes

effective, and that this Order shall be effective as of 12:01 a.m. on the date of this Order without the need for entry or filing of this Order, provided that nothing herein shall invalidate any action taken in compliance with such Interim Stay Order prior to the effectiveness of this Order.

9. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Chapter 11 Debtors, the Foreign Representative, the Proposed Information Officer and their respective counsel, and to any other party or parties likely to be affected by the order sought (including, without limitation, those identified on the service list maintained by the Proposed Information Officer), or upon such other notice, if any, as this Court may order.



Mr. Justice
Cavanagh

Justice Cavanagh

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

Proceeding commenced at Toronto

**INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)**

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Lawyers for the Applicant

THIS IS **EXHIBIT “D”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)



Court File No. CV-24-00720035-00CL

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

THE HONOURABLE) FRIDAY, THE 17TH
)
JUSTICE CAVANAGH) DAY OF MAY, 2024
)

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

**AND IN THE MATTER OF KIDKRAFT, INC., SOLOWAVE DESIGN HOLDINGS
LIMITED., SOLOWAVE DESIGN INC., SOLOWAVE INTERNATIONAL INC. AND
SOLOWAVE DESIGN LP**

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

**SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)**

THIS APPLICATION, made pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") by KidKraft, Inc. ("**KidKraft**"), in its capacity as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of the proceedings commenced in the United States Bankruptcy Court for the Northern District of Texas (the "**U.S. Bankruptcy Court**") pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**") by KidKraft and the Canadian Debtors (as hereinafter defined) (collectively, the "**Chapter 11 Debtors**"), for an Order substantially in the form enclosed in the Application Record, was heard this day by judicial videoconference in Toronto, Ontario.

ON READING the Notice of Application, the Affidavit of Geoff Walker affirmed May 10, 2024, the affidavit of Geoff Walker affirmed May 15, 2024, and the preliminary report of KSV Restructuring Inc. (“KSV”), in its capacity as proposed information officer dated May 16, 2024, each filed, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Foreign Representative, counsel for the proposed information officer, and counsel for the other parties appearing on the participant information form, no one appearing for any other party although duly served as appears from the affidavit of service of Emilie Dillon sworn May 16, 2024, and on reading the consent of KSV to act as the information officer, each filed:

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS** that, although not a company to which the CCAA applies, Solowave Design LP, its Business (as hereinafter defined) and Property (as hereinafter defined) shall have the benefits of the protections and authorizations provided by this Order, other orders made in these proceedings, and the CCAA, and shall otherwise be subject to the provisions of this Order and other orders made in these proceedings.

INITIAL RECOGNITION ORDER

3. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) of this Court dated May 15, 2024 (the “**Initial Recognition Order**”).

4. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Initial Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Initial Recognition Order, the provisions of the Initial Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

5. **THIS COURT ORDERS** that the following orders (collectively, the “**Foreign 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 (I) Authorizing KidKraft, Inc. to Act as Foreign Representative and (II) Granting Related Relief;*
- (b) *Order Directing Joint Administration of the Debtors’ Chapter 11 Cases;*
- (c) *Order Authorizing the Employment and Retention of Stretto, Inc. as Claims, Noticing, and Solicitation Agent;*
- (d) *Interim Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief;*
- (e) *Order (I) Authorizing the Debtors to (A) Continue Their Prepetition Insurance Coverage and Satisfy Prepetition Obligations Related Thereto; (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Coverage on a Postpetition Basis in the Ordinary Course; and (C) Continue Their Prepetition Customs Bond Program and Satisfy Prepetition Obligations Related Thereto; (II) Modifying the Automatic Stay Solely With Respect to Workers’ Compensation Claims; and (III) Granting Related Relief;*
- (f) *Order (I) Approving the Debtors’ Proposed Adequate Assurance Payments for Future Utility Services; (II) Prohibiting Utility Companies From Altering, Discontinuing, or Refusing Services; (III) Approving the Debtors’ Proposed Procedures for Resolving Additional Adequate Assurance Requests; and (IV) Granting Related Relief;*

- (g) *Order (I) Authorizing the Debtors to Pay Certain Taxes and Fees and (II) Granting Related Relief;*
- (h) *Interim Order (I) Authorizing the Debtors to Pay (A) Critical Vendors, (B) Lien Claimants, and (C) 503(B)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief;*
- (i) *Interim Order (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts, (B) Continue Using Existing Checks and Business Forms, (C) Maintain Their Corporate Card Program, and (D) Continue Intercompany Transactions, and (II) Granting Related Relief;*
- (j) *Order (I) Authorizing the Debtors to (A) Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief; and*
- (k) *Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens And Providing Superpriority Administrative Expense Status, (IV), Granting Adequate Protection to the Prepetition Secured Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “**Interim DIP Order**”);*

(copies of which are attached as Schedules “A” to “K” hereto, respectively);

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as hereinafter defined) in Canada.

APPOINTMENT OF INFORMATION OFFICER

6. **THIS COURT ORDERS** that KSV is hereby appointed as an officer of this Court (in such capacity, the “**Information Officer**”), with the powers and duties set out herein and in any other Order made in these proceedings.

NO PROCEEDINGS AGAINST THE CHAPTER 11 DEBTORS OR THE PROPERTY

7. **THIS COURT ORDERS** that until such date as this Court may order (the “**Stay Period**”) no proceeding, application or enforcement process in any court or tribunal in Canada (each, a “**Proceeding**”) shall be commenced or continued against or in respect of (a) KidKraft; or (b) any of Solowave Design Holdings Limited, Solowave Design Inc., Solowave International Inc. or Solowave Design LP (collectively, the “**Canadian Debtors**”), or any of KidKraft’s or the Canadian Debtors’ respective employees or representatives in Canada, or affecting their business (the “**Business**”) or (x) the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate in Canada, including all proceeds thereof, of KidKraft, and (y) the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Canadian Debtors (collectively, (x) and (y), the “**Property**”), except with the written consent of the applicable Chapter 11 Debtors and the Information Officer, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Chapter 11 Debtors, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

8. **THIS COURT ORDERS** that, without limiting the stay of proceedings provided for in the Initial Recognition Order, during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities or person (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the Chapter 11 Debtors, or their employees or representatives in Canada, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the applicable Chapter 11 Debtor and the Information Officer, or with leave of this Court, provided that nothing in this Order shall (a) prevent the assertion of or the exercise of rights and remedies outside of Canada; (b) empower any Chapter 11 Debtor to carry on any business in Canada which such Chapter 11 Debtor is not lawfully entitled to carry on; or (c) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (d) prevent the filing of any registration to preserve or perfect a security interest, (e) prevent the registration of a claim for lien; or (f) prevent the DIP Agent (as defined in the

Interim DIP Order) under the post-filing financing approved in the Foreign Proceeding pursuant to the Interim DIP Order (the “**DIP Facilities**”) from making any filing or any registration contemplated by or consistent with the DIP Facilities or the Interim DIP Order.

NO INTERFERENCE WITH RIGHTS

9. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence or permit in favour of or held by any of the Chapter 11 Debtors and affecting the Business or Property, except with leave of this Court.

ADDITIONAL PROTECTIONS

10. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Chapter 11 Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation, all licensing arrangements, manufacturing arrangements, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, logistics services, utility, fuel, maintenance, customs broker services or other services provided in respect of the Property or Business of the applicable Chapter 11 Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the applicable Chapter 11 Debtors, and that the Chapter 11 Debtors shall be entitled to the continued use in Canada of their current premises, bank accounts, telephone numbers, facsimile numbers, internet addresses and domain names.

11. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Chapter 11 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Chapter 11 Debtors whereby the directors or officers are alleged under any law of Canada to be liable in their capacity as directors or officers for the payment or performance of such obligations.

12. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded to the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

13. **THIS COURT ORDERS** that the Information Officer:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (b) shall report to this Court at such times and intervals that the Information Officer considers appropriate with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) in addition to the periodic reports referred to in paragraph 13(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 13(b) above;
- (d) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Chapter 11 Debtors, to the extent that is necessary to perform its duties arising under this Order; and
- (e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

14. **THIS COURT ORDERS** that the Foreign Representative and the Chapter 11 Debtors shall (a) advise the Information Officer of all material steps taken by the Foreign Representative or the Chapter 11 Debtors in these proceedings or in the Foreign Proceeding; (b) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations; and (c) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

15. **THIS COURT ORDERS** that the Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

16. **THIS COURT ORDERS** that the Information Officer (a) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time; and (b) may post on its website any other materials that the Information Officer deems appropriate.

17. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Chapter 11 Debtor with information provided by the Chapter 11 Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Chapter 11 Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Chapter 11 Debtors may agree.

18. **THIS COURT ORDERS** that Osler, Hoskin & Harcourt LLP, as Canadian counsel to the Foreign Representative and the Chapter 11 Debtors (“**Canadian Counsel**”), the Information Officer and Gowling WLG (Canada) LLP, counsel to the Information Officer, shall be paid by the Foreign Representative or the Chapter 11 Debtors (or any of their respective affiliates as they may elect) their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates

and charges unless otherwise ordered by the Court on the passing of accounts. The Chapter 11 Debtors are hereby authorized and directed to pay the accounts of Canadian Counsel, the Information Officer and counsel for the Information Officer on a bi-weekly basis or on such terms as such parties may agree and the retainers previously paid to Canadian Counsel, the Information Officer and counsel to the Information Officer, respectively, are hereby approved, *nunc pro tunc*. The accounts of Canadian Counsel, the Information Officer, and counsel to the Information Officer shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that Canadian Counsel, the Information Officer and counsel to the Information Officer shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of C\$750,000 as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 25 and 27 hereof.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Chapter 11 Debtors shall indemnify its directors and officers against obligations and liabilities in Canada that they may incur as directors or officers of Chapter 11 Debtors after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director’s or officer’s gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Chapter 11 Debtors shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property, which charge shall not exceed an aggregate amount of C\$100,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors’ Charge shall have the priority set out in paragraphs 25 and 27 hereof.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the Chapter 11 Debtors' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

DIP FINANCING

24. **THIS COURT ORDERS** that the DIP Agent, for and on behalf of itself and the DIP Lender (each as defined in the Interim DIP Order), shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on the Property, which DIP Charge shall be consistent with the liens and charges created by or set forth in the Interim DIP Order, provided however that, with respect to the Property, the DIP Charge shall have the priority set out in paragraphs 25 and 27 hereof, and further provided that, the DIP Charge shall not be enforced except in accordance with the terms of the Interim DIP Order and with leave of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

25. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors' Charge and the DIP Charge (collectively, the "**Charges**"), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of C\$750,000);
- (b) Second – Directors' Charge (to the maximum amount of C\$100,000); and
- (c) Third – DIP Charge.

26. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

27. **THIS COURT ORDERS** that the Charges (as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

28. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Chapter 11 Debtors shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Charges, unless the Chapter 11 Debtors also obtain the prior written consent of the beneficiaries of the Charges (collectively, the “**Chargees**”).

29. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any Chapter 11 Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by a Chapter 11 Debtor of any Agreement to which it is a party;
- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (iii) the payments made by the Chapter 11 Debtors to the Chargees pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

30. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/%20eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure, R.R.O. 1990, Reg 194 (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/KidKraft>.

31. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Foreign Representative, the Chapter 11 Debtors, the Information Officer and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Chapter 11 Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the applicable Chapter 11 Debtor and that any such service or distribution shall be deemed to be received (a) in the case of delivery by personal delivery, facsimile or electronic transmission, on the date of delivery or transmission; (b) in the case of delivery by prepaid ordinary mail, on the third business day after mailing; and (c) in the case of delivery by courier, on the next business day following the date of forwarding thereof.

32. **THIS COURT ORDERS** that the Foreign Representative, the Chapter 11 Debtors, the Information Officer and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Chapter 11 Debtors’ creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and

notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

33. **THIS COURT ORDERS** that, notwithstanding section 53(b) of the CCAA, without delay after this Order is made, the Information Officer shall cause to be published, a notice substantially in the form attached to this Order as Schedule “L”, once a week for two consecutive weeks, in *The Globe and Mail* (National Edition).

34. **THIS COURT ORDERS** that the Information Officer shall maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Information Officer shall post the Service List, as may be updated from time to time, on the case website as part of the public materials in relation to these proceedings. Notwithstanding the foregoing, the Information Officer shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

GENERAL

35. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

36. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Chapter 11 Debtor, the Business or the Property.

37. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, or regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, to give effect to this Order and to assist the Foreign Representative, the Chapter 11 Debtors, the Information Officer, and their respective 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, the Chapter 11 Debtors 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, the Chapter 11 Debtors and the Information Officer and their respective agents in carrying out the terms of this Order.

38. **THIS COURT ORDERS** that each of the Foreign Representative, the Chapter 11 Debtors and the Information Officer shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, or regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

39. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Foreign Representative, the Chapter 11 Debtors, the Information Officer, the DIP Agent 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.

40. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. on the date of this Order without the need for entry or filing of this Order.

 Mr. Justice
Cavanagh

Justice Cavanagh

Schedule "A"

Foreign Representative Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed May 14, 2024

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mv111
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 14

**ORDER (I) AUTHORIZING KIDKRAFT, INC. TO ACT
AS FOREIGN REPRESENTATIVE AND (II) GRANTING RELATED RELIEF**

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Order*”) (i) authorizing KidKraft, Inc. to act as Foreign Representative on behalf of the Debtors’ estates in the Canadian Proceeding in relation to the Debtors’ Chapter 11 Cases and (ii) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors’ U.S. corporate headquarters and the Debtors’ service address is: 4630 Olin Road, Dallas, TX 75244.

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

raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. KidKraft is authorized, pursuant to section 1505 of the Bankruptcy Code, to act as the Foreign Representative on behalf of the Debtors' estates in any judicial or other proceedings in Canada. As Foreign Representative, KidKraft is hereby authorized and has the power to act in any way permitted by applicable foreign law, including, but not limited to (i) seeking recognition of these Chapter 11 Cases in the Canadian Proceedings, (ii) requesting that the Canadian Court lend assistance to this Court in protecting the property of the Debtors' estates, (iii) requesting that the Canadian Court recognize the Sale Transaction, including, without limitation, with respect to the Canadian Transferred Assets (as defined in the Purchase Agreement), (iv) seeking any other appropriate relief from the Canadian Court that the Debtors deem just and proper in the furtherance of the protection of the Debtors' estates, (v) consistent with any orders of the Canadian Court, retaining and compensating Canadian professionals for their reasonable costs and fees on behalf of the Foreign Representative, and paying the reasonable costs of the Canadian Court-appointed

information officer and its counsel, each without further order of this Court, and (vi) taking similar steps and seeking similar relief in any other foreign jurisdiction in which the Debtors determine it is necessary to commence an ancillary proceeding.

2. This Court requests the aid and assistance of the Canadian Court to recognize these Chapter 11 Cases as a “foreign main proceeding” and KidKraft as the Foreign Representative pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order.

3. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

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

5. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

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Matthew D. Struble (Texas Bar No. 24102544)
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- and -

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

I hereby certify that the foregoing is a true copy of the original thereof now in my office this the 14th day of May 2024 Clerk, U. S Bankruptcy Court Northern District of Texas
By Marcy Okagon Deputy

Schedule “B”

Order Directing Joint Administration



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 13, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mv11
	§	
KIDKRAFT, INC.	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 75-2293303	§	

In re:	§	Case No. 24-80046-mv11
	§	
KIDKRAFT EUROPE, LLC	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 26-4153174	§	

In re:	§	Case No. 24-80047-mv11
	§	
KIDKRAFT INTERMEDIATE HOLDINGS, LLC	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 47-4398800	§	

In re:

KIDKRAFT INTERNATIONAL HOLDINGS, INC.

Debtor.

Tax I.D. No. 26-4152933

Case No. 24-80048-mvl11

(Chapter 11)

In re:

KIDKRAFT PARTNERS, LLC

Debtor.

Tax I.D. No. 26-4153268

Case No. 24-80049-mvl11

(Chapter 11)

In re:

KIDKRAFT INTERNATIONAL IP HOLDINGS, LLC

Debtor.

Tax I.D. No. 80-0341841

Case No. 24-80050-mvl11

(Chapter 11)

In re:

SOLOWAVE DESIGN CORP.

Debtor.

Tax I.D. No. 75-3269294

Case No. 24-80051-mvl11

(Chapter 11)

In re:

SOLOWAVE DESIGN HOLDINGS LIMITED

Debtor.

Canadian Business No. 836770206

Case No. 24-80052-mvl11

(Chapter 11)

In re:	§	Case No. 24-80053-mvl11
	§	
SOLOWAVE DESIGN INC.	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Canadian Business No. 854863073	§	

In re:	§	Case No. 24-80054-mvl11
	§	
SOLOWAVE DESIGN LP	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Canadian Business No. 834127201	§	

In re:	§	Case No. 24-80055-mvl11
	§	
SOLOWAVE INTERNATIONAL INC.	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Canadian Business No. 884734302	§	Re: Docket No. 2

**ORDER DIRECTING JOINT
ADMINISTRATION OF THE DEBTORS' CHAPTER 11 CASES**

Upon the motion (the “*Motion*”)¹ filed by the above-captioned debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Order*”) consolidating the administration of all of the above-captioned chapter 11 cases for procedural purposes only, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to

¹ Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Motion.

28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The above-captioned chapter 11 cases shall be jointly administered for procedural purposes only as follows. Additionally, the following checked items are ordered:

- a. X One disclosure statement and plan of reorganization may be filed for all of the cases by any plan proponent; however, substantive consolidation of the Debtors' estates is not being requested at this time.
- b. X Parties may request joint hearings on matters pending in any of the jointly administered cases.
- c. X The U.S. Trustee may conduct joint informal meetings with the Debtors, as required, and, unless otherwise directed by the Court, a joint first meeting of creditors.
- d. X Unless otherwise required by the Court, each Debtor will file separate schedules of assets and liabilities and statements of financial affairs, operating reports, and, as applicable, lists of equity security holders.
- e. X Proofs of claim filed by creditors of any Debtor shall reflect the caption and case number of the Debtor to which the claim relates and in which chapter 11 case such claim is to be filed.
- f. X A separate claims register shall be maintained for each Debtor.
- g. X Each Debtor shall separately file operating reports and separately pay its quarterly fee due to the U.S. Trustee.

2. The Court shall maintain one file and one docket for all of the jointly administered cases under the lead case of KidKraft, Inc. and administer these chapter 11 cases under a consolidated caption, as follows:

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.²	§	(Jointly Administered)

3. The foregoing caption satisfies the requirements set forth in section 342(c)(1) of the Bankruptcy Code.

4. A notation substantially similar to the following shall be entered on each of the Debtors’ respective dockets (other than Debtor KidKraft, Inc.) to reflect the joint administration of these chapter 11 cases:

An order has been entered in this case in accordance with Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and Rule 1015-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas directing the joint administration of the chapter 11 cases of KidKraft, Inc., KidKraft Europe, LLC, KidKraft Intermediate Holdings, LLC, KidKraft International Holdings, Inc., KidKraft Partners, LLC, KidKraft International IP Holdings, LLC, Solowave Design Corp., Solowave Design Holdings Limited, Solowave Design Inc., Solowave Design LP, and Solowave International Inc. The docket in Case No. 24-80045-mvl11 should be consulted for all matters affecting these cases. All further pleadings and other papers shall be filed in and all further docket entries shall be made in Case No. 24-80045-mvl11.

² The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors’ U.S. corporate headquarters and the Debtors’ service address is: 4630 Olin Road, Dallas, TX 75244.

5. The Debtors shall maintain, and the Clerk of the Court shall keep, one consolidated docket, one file, and one consolidated service list for these chapter 11 cases.

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

7. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

8. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases; *provided, however*, this Order shall be without prejudice to the rights of the Debtors to seek entry of an Order substantively consolidating their respective cases.

9. Nothing contained in the Motion or this Order shall be deemed or construed as granting any Debtor standing to be heard on any issue affecting another jointly administered Debtor beyond what is granted under applicable law.

10. Nothing contained in the Motion or this Order shall be deemed or construed as affecting the rights of parties in interest to object to, and be heard on, the appointment of any committee of creditors under section 1102 of the Bankruptcy Code, and all such rights are reserved.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

12. The Court retains exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “C”

Claims Agent Employment and Retention Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	Re: Docket Nos. 4, 47

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION
OF STRETTO, INC. AS CLAIMS, NOTICING, AND SOLICITATION AGENT**

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft International IP Holdings, LLC (1841), KidKraft Partners, LLC (3268), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

The Court has considered the Debtors' application (the "*Application*")² to employ Stretto, Inc. (the "*Agent*") as its claims, noticing, and solicitation agent in these cases. The Court finds that *ex parte* relief is appropriate. The Court orders:

1. The Debtors are authorized to employ Agent under the terms of the Engagement Letter attached to the Application as modified by this Order.

2. The Agent is authorized and directed to perform the services as described in the Application, the Engagement Letter, and this Order. If a conflict exists, this Order controls.

3. The Agent may not sell bankruptcy data obtained through its role as the Agent to third parties.

4. The Clerk shall provide Agent with Electronic Case Filing ("*ECF*") credentials that allow Agent to receive ECF notifications, file certificates and/or affidavits of service.

5. The Agent is a custodian of court records and is designated as the authorized repository for all proofs of claim filed in these cases. The Agent shall maintain the official Claims Register(s) in these cases. The Agent must make complete copies of all proofs of claims available to the public electronically without charge. Proofs of Claims and all attachments may be redacted only as ordered by the Court.

6. The Agent shall provide the Clerk with a certified duplicate of the official Claims Register upon request.

7. The Agent shall provide (i) an electronic interface for filing proofs of claim in these cases; and (ii) a post office box or street mailing address for the receipt of proofs of claim sent by United States Mail or overnight delivery.

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

8. The Agent is authorized to take such other actions as are necessary to comply with all duties and provide the Services set forth in the Application and the Engagement Letter.

9. The Agent shall provide detailed invoices setting forth the services provided and the rates charged on a monthly basis to the Debtors, their counsel, the Office of the United States Trustee, counsel for any official committee, and any party in interest who specifically requests service of the monthly invoices in writing.

10. The Agent shall not be required to file fee applications. Upon receipt of Agent's invoices, the Debtors are authorized to compensate and reimburse Agent for all undisputed amounts in the ordinary course in accordance with the terms of the Engagement Letter. All amounts due to the Agent will be treated as § 503(b) administrative expenses. The Agent may apply its advance in accordance with the Engagement Letter and the terms of this Order.

11. The Debtors shall indemnify the Agent under the terms of the Engagement Letter, as modified and limited by this Order. Notwithstanding the foregoing, the Agent may only be indemnified for claims, noticing and solicitation agent activities and is not indemnified for, and may not receive any contribution or reimbursement with respect to the following:

- a. For matters or services arising before these chapter 11 cases are closed, any matter or service not approved by an order of this Court.
- b. Unauthorized marketing activities or data or privacy breaches.
- c. Any matter that is determined by a final order of a court of competent jurisdiction that arises from (i) the Agent's gross negligence, willful misconduct, fraud, bad faith, self-dealing, or breach of fiduciary duty (ii) a contractual dispute if the Court determines that indemnification, contribution, or reimbursement would not be permissible under applicable law; or (iii) any situation in which the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *In re Thermadyne Holdings Corp.*, 283 B.R. 749, 756 (B.A.P. 8th Cir. 2002) or applicable Fifth Circuit authority. No matter governed by this paragraph may be settled without this Court's approval.

d. This paragraph does not preclude Agent from seeking an order from this Court requiring the advancement of indemnity, contribution or reimbursement obligations in accordance with applicable law.

12. Notwithstanding paragraph 3(c) of the Engagement Letter, in the event of conversion of these chapter 11 cases to case(s) under chapter 7, nothing in this Order prevents a chapter 7 trustee from seeking an order terminating Stretto's services.

13. Section 6 of the Engagement Letter is modified as follows:

“At the request of the Company or the Company Parties, Stretto shall be authorized to establish accounts with financial institutions in the name of and as agent for the Company to facilitate distributions pursuant to a chapter 11 plan or other transaction. Any such account(s) shall be established with a United States Trustee approved depository institution in compliance with section 345 of the Bankruptcy Code. To the extent that certain financial products are provided to the Company pursuant to Stretto's agreement with financial institutions, Stretto may receive compensation from such institutions for the services Stretto provides pursuant to such agreement.”

14. Prior to any increases in Stretto's rates for any individual retained by Stretto and providing services in these cases, excluding annual “step increases” historically awarded by Stretto in the ordinary course to employees due to advancing seniority and promotion, Stretto shall file a supplemental affidavit with the Court and provide 10 business days' notice to the Debtors, the United States Trustee, and any official committee. 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 United States 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 all rates and rate increases are subject to review by the Court.

15. In the event of any inconsistency between the Engagement Letter, the Application, and this Order, this Order shall govern.

16. During the pendency of these cases the sole venue for resolving disputes under this engagement shall be the United States Bankruptcy Court for the Northern District of Texas. Notwithstanding section 16 of the Engagement Letter, any disputes and claims arising out of or relating to section 9 (Indemnification) of the Engagement Letter and the other indemnity provisions approved hereby shall be decided exclusively by and shall be subject to final approval of this Court, unless such amounts are *de minimis*.

17. The Agent shall not cease providing services during these chapter 11 cases for any reason, including nonpayment, without an order of the Court. In the event Agent is unable to provide the Services set out in this Order and/or the Engagement Letter, Agent will immediately notify the Clerk and the Debtors' attorney and cause all original proofs of claim and data turned over to such persons as directed by the Court.

18. After entry of an order terminating the Agent's services, upon the closing of these cases, or for any other reason, the Agent shall be responsible for archiving all proofs of claim with the Federal Archives Record Administration, if applicable, or as otherwise directed and shall be compensated by the Debtors for such archiving services.

19. The terms and conditions of this Order are immediately effective and enforceable upon its entry.

20. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order. The scope of the Agent's services may be altered only on separate motion and further order of this Court.

End of Order

Order submitted by:

VINSON & ELKINS LLP

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “D”

Interim Customer Programs Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
KIDKRAFT, INC., et al.,	§	(Chapter 11)
Debtors.¹	§	(Jointly Administered)
	§	Re: Docket No. 10

**INTERIM ORDER
(I) AUTHORIZING THE DEBTORS TO
(A) MAINTAIN AND ADMINISTER THEIR CUSTOMER
PROGRAMS; (B) RENEW, REPLACE, IMPLEMENT, OR MODIFY THEIR
CUSTOMER PROGRAMS; AND (C) HONOR THEIR OBLIGATIONS RELATED
TO THE CUSTOMER PROGRAMS, AND (II) GRANTING RELATED RELIEF**

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an interim order (the “*Interim Order*”) (i) authorizing the

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors’ U.S. corporate headquarters and the Debtors’ service address is: 4630 Olin Road, Dallas, TX 75244.

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

Debtors to (a) maintain and administer their Customer Programs; (b) renew, replace, implement, or modify their Customer Programs; and (c) honor their obligations related to the Customer Programs, in the ordinary course of business consistent with past practice and in the Debtors' business judgment, all as more fully set forth in the Motion and in the First Day Declaration; and (ii) granting related relief, and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The final hearing (the "***Final Hearing***") on the Motion shall be held on June 5, 2024, at 9:30 a.m., prevailing Central Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 5:00 p.m., prevailing Central Time, on May 31, 2024, and shall be served on: (i) the Debtors, 4630 Olin Road, Dallas, TX 75244, Attn: Geoff Walker; (ii) proposed attorneys to the Debtors, Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3900,

Dallas, TX 75201, Attn: Matthew D. Struble, and 1114 Avenue of the Americas, 32nd Floor, New York, New York 10036, Attn: Lauren R. Kanzer; (iii) counsel to the administrative agent under the Debtors' prepetition secured credit agreement, Katten Muchin Rosenman LLP, 50 Rockefeller Plaza, New York, NY 10020, Attn: Cindi M. Giglio; (iv) counsel to the buyer under the Debtors' prepetition asset purchase agreement, King & Spalding LLP, 1185 Avenue of the Americas, 34th Floor, New York, NY 10036, Attn: Roger Schwartz and Miguel Cadavid; and (v) the Office of the United States Trustee for the Northern District of Texas, 1100 Commerce Street, Room 976, Dallas, TX 75242, Attn: Meredyth Kippes.

2. The Debtors are authorized pursuant to sections 105(a), 363(b), 1107(a), and 1108 of the Bankruptcy Code, to maintain and administer the Customer Programs in the ordinary course of business consistent with past practice.

3. The Debtors are authorized, in their discretion, to renew, replace, implement, or modify their Customer Programs, in whole or in part, in accordance with the Debtors' business judgment.

4. The Debtors are authorized to honor their obligations owing to their customers in connection with, relating to, or based upon their Customer Programs.

5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors'

designation of any particular check or electronic payment request as approved by this Interim Order.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Customer Programs.

8. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

9. Notwithstanding anything in this Interim Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the "**DIP Order**"); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

10. Bankruptcy Rule 6003(b) has been satisfied.

11. The requirements of Bankruptcy Rule 6004(a) are waived.
12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.
13. The terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.
14. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “E”

Prepetition Insurance Coverage and Obligations Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 7

ORDER

**(I) AUTHORIZING THE DEBTORS
TO (A) CONTINUE THEIR PREPETITION
INSURANCE COVERAGE AND SATISFY
PREPETITION OBLIGATIONS RELATED
THERE TO; (B) RENEW, AMEND, SUPPLEMENT,
EXTEND, OR PURCHASE INSURANCE COVERAGE
ON A POSTPETITION BASIS IN THE ORDINARY COURSE; AND
(C) CONTINUE THEIR PREPETITION CUSTOMS BOND PROGRAM
AND SATISFY PREPETITION OBLIGATIONS RELATED THERETO;**

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

**(II) MODIFYING THE AUTOMATIC STAY SOLELY WITH RESPECT TO
WORKERS' COMPENSATION CLAIMS; AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “*Motion*”)² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Order*”) (i) authorizing the Debtors to (a) continue their prepetition insurance coverage and satisfy prepetition obligations related thereto; (b) renew, amend, supplement, extend, or purchase insurance coverage on a postpetition basis in the ordinary course; and (c) continue their prepetition Customs Bond program and satisfy prepetition obligations related thereto; (ii) modifying the automatic stay solely with respect to workers’ compensation claims; and (iii) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is **HEREBY ORDERED THAT:**

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

1. The Debtors are authorized to continue their Insurance Policies and Customs Bond Program and to pay or otherwise satisfy any Insurance Obligations, Workers' Compensation Obligations, or Customs Bond Obligations, whether such liabilities arose before or after the Petition Date, in the ordinary course of business.

2. The Debtors are authorized to renew, amend, supplement, extend, or purchase Insurance Policies and Customs Bonds, and to take all appropriate actions in connection therewith, in the ordinary course of business.

3. Pursuant to section 362(d) of the Bankruptcy Code (and after consultation with Gordon Brothers in all respects): (i) the Debtors' employees are authorized to proceed with their workers' compensation claims, if any, in the appropriate judicial or administrative forum under the Workers' Compensation Program, and the Debtors are authorized to pay all undisputed prepetition amounts relating thereto in the ordinary course of business; and (ii) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (i) are waived. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program, and any such claims must be pursued in accordance with the Workers' Compensation Program. Payment on account of any recoveries obtained in connection with a claim brought pursuant to this paragraph is limited to the terms and conditions of the Workers' Compensation Program, including with regard to any policy limits or caps.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented

for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Insurance Premiums, Insurance Obligations, and Customs Bond Obligations.

7. The Debtors will promptly notify the U.S. Trustee, Katten Muchin Rosenman LLP, as counsel to the administrative agent under the Debtors' prepetition secured credit agreement, King & Spalding LLP, as counsel to the buyer under the Debtors' prepetition asset purchase agreement, and any statutory committee appointed in these cases if the Debtors materially renew, amend, supplement, extend, terminate, replace, increase, or decrease existing Insurance Policy and Customs Bond coverage or change Insurance Carriers or Customs Bond Issuers, enter into any new Premium Financing Agreements, obtain additional insurance coverage, or execute other agreements in connection therewith, including letters of credit or similar financial instruments. The Debtors will provide the U.S. Trustee with proof of insurance within 10 days of the renewal or replacement of any Insurance Policy or Customs Bond.

8. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any prepetition claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the

Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

9. Unless specifically provided herein, and notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Order shall create any rights in favor of, or enhance the status of any claim held by, any person to whom any obligations under the Insurance Policies are owed.

10. Notwithstanding anything in this Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the “*DIP Order*”); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

11. The requirements of Bankruptcy Rule 6004(a) are waived.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

13. The Court retains exclusive jurisdiction to determine amounts of any indemnification claims arising from the Customs Indemnity Agreement unless such amounts are *de minimis*.

14. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

End of Order

Order submitted by:

VINSON & ELKINS LLP

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “F”

Future Utility Services Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl-11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 11

**ORDER (I) APPROVING THE DEBTORS' PROPOSED
ADEQUATE ASSURANCE PAYMENTS FOR FUTURE UTILITY
SERVICES; (II) PROHIBITING UTILITY COMPANIES FROM
ALTERING, DISCONTINUING, OR REFUSING SERVICES; (III) APPROVING
THE DEBTORS' PROPOSED PROCEDURES FOR RESOLVING ADDITIONAL
ADEQUATE ASSURANCE REQUESTS; AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "*Motion*")² filed by the above-captioned debtors and debtors in possession (collectively, the "*Debtors*") for entry of an order (the "*Order*") (i) approving the Debtors' proposed adequate assurance payments for future Utility Services; (ii) prohibiting Utility

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

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

Companies from altering, discontinuing, or refusing services; (iii) approving the Debtors' proposed Adequate Assurance Procedures for resolving additional adequate assurance requests; and (iv) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation to the Motion and all of the proceedings had before the Court in connection with the Motion, it is **HEREBY ORDERED THAT:**

1. The \$20,000 to be deposited by the Debtors (the "**Adequate Assurance Deposit**") into a segregated account (the "**Adequate Assurance Account**") within 10 business days of the date hereafter or as soon thereafter as is reasonably practicable, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, subject to the Adequate Assurance Procedures, shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

2. The Debtors are authorized to cause the Adequate Assurance Deposit to be held in a segregated account during the pendency of these chapter 11 cases. The Adequate Assurance

Account has been established as a “Debtor in Possession” account at a depository approved by the United States Trustee.

3. The Utility Companies are prohibited from altering, discontinuing, or refusing services on account of any unpaid prepetition charges, the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance.

4. The following Adequate Assurance Procedures are approved:

- a. The Debtors will serve a copy of the Motion and this Order to each Utility Company on the Utility Services List, attached to the Motion as **Exhibit B**, within 3 business days after entry of this Order by the Court granting the Motion.
- b. Subject to paragraphs (c)-(e) herein, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$20,000, in the Adequate Assurance Account within 10 business days after entry of this Order granting the Motion, or as soon thereafter as is reasonably practicable.
- c. Each Utility Company shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Company in the column labeled “Proposed Adequate Assurance” on the Utility Services List, as may be amended or modified in accordance with this Order granting the Motion, and such funds shall constitute adequate assurance for each Utility Company.
- d. If an amount relating to Utility Services provided postpetition by a Utility Company is unpaid, and remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Adequate Assurance Account by filing notice with the Court demanding payment and giving notice to: (i) the Debtors, 4630 Olin Road, Dallas, TX 75244, Attn: Geoff Walker; (ii) proposed attorneys to the Debtors, 2001 Ross Avenue, Suite 3900, Dallas, TX 75201, Attn: Matthew D. Struble, and 1114 Avenue of the Americas, 32nd Floor, New York, New York 10036, Attn: Lauren R. Kanzer; (iii) counsel to the administrative agent under the Debtors’ prepetition secured credit agreement, Katten Muchin Rosenman LLP, 50 Rockefeller Plaza, New York, NY 10020, Attn: Cindi M. Giglio; (iv) counsel to the buyer under the Debtors’ prepetition asset purchase agreement, King & Spalding LLP, 1185 Avenue of the Americas, 34th Floor, New York, NY 10036, Attn: Roger Schwartz and Miguel Cadavid; and (v) the Office of the United States Trustee for the Northern District of Texas, 1100 Commerce Street, Room 976, Dallas, TX 75242, Attn: Meredyth Kippes (collectively, the “*Notice Parties*”). The Debtors shall honor such valid request within five (5) business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Company to resolve any dispute regarding such

request without further order of the Court. To the extent that a Utility Company receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Company shall be removed from the Adequate Assurance Account by the Debtors automatically on the earlier of: (i) reconciliation and payment by the Debtors of the Utility Company's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Company; and (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases.
- f. Any Utility Company desiring additional assurances of payment in the form of deposits, prepayments, or otherwise must file and serve a request for additional assurance (an "***Additional Assurance Request***") on the Notice Parties within 14 days after entry of this Order by the Court granting the Motion.
- g. Any Additional Assurance Request must: (i) be filed with the Court; (ii) set forth the location(s) for which Utility Services are provided, the account number(s) for such location(s), and the outstanding balance for each such account; (iii) summarize the Debtors' payment history relevant to the affected account(s), including any security deposits or surety bonds; and (iv) explain why the Utility Company believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment under section 366 of the Bankruptcy Code or the basis for seeking the Additional Assurance Request, each as applicable.
- h. Any Utility Company that does not timely file with the Court and serve an Additional Assurance Request will be (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with section 366 of the Bankruptcy Code and (ii) forbidden from altering, discontinuing, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges or requiring additional assurance of payment (other than the Proposed Adequate Assurance).
- i. The Debtors may, without further order from the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Company, and the Debtors may, in connection with any such agreement, provide a Utility Company with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors submit that such adequate assurance is reasonable.
- j. Notwithstanding anything in these procedures to the contrary, the Court shall conduct a hearing within 30 days following the Petition Date to resolve any outstanding Adequate Assurance Requests in the event any are timely filed by the Utility Companies (the "***Determination Hearing***").

5. The Utility Companies are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

6. All Utility Companies that do not file an objection or serve an Additional Assurance Request shall be: (a) deemed to have received adequate assurance of payment “satisfactory” to such Utility Company in compliance with section 366 of the Bankruptcy Code, and (b) forbidden from (i) altering, discontinuing, or refusing services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance, and (ii) requiring additional assurance of payment other than the Proposed Adequate Assurance.

7. To the extent there is an Additional Assurance Request that has not been resolved between the Debtors and such Utility Company, the Court shall conduct the Determination Hearing on June 5, 2024 at 9:30 a.m. Central Time to resolve any disputes between the Debtors and such Utility Company regarding the Adequate Assurance Procedures and/or the proposed Adequate Assurance Deposit.

8. For Utility Companies that are identified by the Debtors subsequent to the entry of this Order, the Debtors will add such Utility Company to the Utility Services List and cause a copy of this Order, including the Adequate Assurance Procedures, to be served, within 3 business days, on such subsequently identified Utility Company and with sufficient time for such Utility to object in advance of the Determination Hearing. In addition, the Debtors will provide an Adequate Assurance Deposit in an amount equal to the lesser of (a)(i) approximately half of the Average Monthly Utility Company Cost for such Utility Company, minus (ii) any deposit held by such Utility Company, plus (iii) the estimated amount owed to such Utility Company for prepetition

services which have accrued but not come due; and (b) approximately half of the Average Monthly Utility Company Cost for such Utility Company.

9. The relief granted herein is for all Utility Companies providing Utility Services to the Debtors and is not limited to those parties or entities listed on the Utility Services List; *provided, however*, the Debtors must add any Utility Company impacted by this Order to the Utility Service List and (a) serve any subsequently identified Utility Company with a copy of the Motion and Order within 3 business days of such provider being added to the list and with sufficient time for such Utility to object in advance of the Determination Hearing, (b) allocate additional amounts to the Adequate Assurance Deposit in accordance with the Motion, and (c) provide notice to the subsequently identified Utility Company of its proposed Adequate Assurance. Any subsequently identified Utility Company shall (x) be bound to the Adequate Assurance Procedures and (y) have until the earlier of 21 days from the date of service of the Motion and the Order or the business day before the Determination Hearing to make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

11. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Utility Services.

12. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any

claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

13. Nothing in the Motion or this Order shall be deemed to vacate or modify any other restrictions on the termination of service by a Utility Company as provided by sections 362 and 365 of the Bankruptcy Code or other applicable law.

14. Notwithstanding anything in this Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the "*DIP Order*"); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

15. The requirements of Bankruptcy Rule 6004(a) are waived.

16. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

17. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

William L. Wallander (Texas Bar No. 20780750)
Matthew D. Struble (Texas Bar No. 24102544)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “G”

Taxes and Fees Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors. ¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 5

**ORDER (I) AUTHORIZING THE DEBTORS TO
PAY CERTAIN TAXES AND FEES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “*Motion*”)² filed by the above-captioned debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Order*”) (i) authorizing the

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors’ U.S. corporate headquarters and the Debtors’ service address is: 4630 Olin Road, Dallas, TX 75244.

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

Debtors to remit and pay (or use tax credits to offset) certain accrued and outstanding prepetition Taxes and Fees that will become payable during the pendency of these chapter 11 cases in the ordinary course of business and (ii) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation to the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis as set forth herein.
2. The Debtors are authorized to pay and remit prepetition Taxes and Fees to the Authorities pursuant to this Order in accordance with the Motion.
3. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
4. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented

for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

5. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any taxes or fees.

6. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any prepetition claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

7. Notwithstanding anything in this Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the "**DIP Order**"); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

8. The requirements of Bankruptcy Rule 6004(a) are waived.

9. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

10. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

William L. Wallander (Texas Bar No. 20780750)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “H”

Interim Authorization to Pay Critical Vendors and Claimants Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl-11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	Re: Docket No. 9

**INTERIM ORDER
(I) AUTHORIZING THE DEBTORS TO PAY
(A) CRITICAL VENDORS, (B) LIEN CLAIMANTS, AND
(C) 503(B)(9) CLAIMANTS; (II) CONFIRMING ADMINISTRATIVE EXPENSE
PRIORITY OF OUTSTANDING ORDERS; AND (III) GRANTING RELATED RELIEF**

Upon the Motion filed by the above referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an interim order (the “*Interim Order*”) (i) authorizing the Debtors to pay in the ordinary course of business, based on their sound business judgment, prepetition amounts owed to the Vendors that are necessary to avoid immediate and irreparable

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors’ U.S. corporate headquarters and the Debtors’ service address is: 4630 Olin Road, Dallas, TX 75244.

harm; (ii) confirming the administrative expense priority status and treatment of the Debtors' Outstanding Orders; and (iii) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The final hearing (the "***Final Hearing***") on the Motion shall be held on June 5, 2024, at 9:30 a.m., prevailing Central Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 5:00 p.m., prevailing Central Time, on May 31, 2024, and shall be served on: (i) the Debtors, 4630 Olin Road, Dallas, TX 75244, Attn: Geoff Walker; (ii) proposed attorneys to the Debtors, Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3900, Dallas, TX 75201, Attn: Matthew D. Struble, and 1114 Avenue of the Americas, 32nd Floor, New York, New York 10036, Attn: Lauren R. Kanzer; (iii) counsel to the administrative

agent under the Debtors' prepetition secured credit agreement, Katten Muchin Rosenman LLP, 50 Rockefeller Plaza, New York, NY 10020, Attn: Cindi M. Giglio; (iv) 1185 Avenue of the Americas, 34th Floor, New York, NY 10036, Attn: Roger Schwartz and Miguel Cadavid; and (v) the Office of the United States Trustee for the Northern District of Texas, 1100 Commerce Street, Room 976, Dallas, TX 75242, Attn: Meredyth Kippes.

2. The Debtors are authorized, subject to this Interim Order, to pay the prepetition Vendor Claims described in the Motion, in the ordinary course of business, as the Debtors determine to be necessary or appropriate in order to avoid immediate and irreparable harm, in an aggregate amount not to exceed \$525,000 on an interim basis as set forth in the categories and amounts set forth in the Motion. In the event the Debtors expect to exceed the aggregate amounts in any category as detailed in the Motion during the interim period, the Debtors shall file a notice with the Court describing the category and overage amount prior to payment; *provided* that if the Debtors expect to exceed the aggregate amount of all Vendor Claims under this Interim Order, the Debtors shall file a separate motion seeking authority to exceed such aggregate amount.

3. As a condition to receiving any payment under this Interim Order, a Vendor must maintain or apply, as applicable, Customary Trade Terms² during the pendency of these chapter 11 cases. Further, if a Vendor, after receiving a payment under this Interim Order, ceases to provide goods or services on Customary Trade Terms, the Debtors may assert and request that the Court order: (i) that the payment of such Vendor Claim is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover from such Vendor in cash,

² As used herein, "*Customary Trade Terms*" means, with respect to a Vendor, (i) the normal and customary trade terms, practices, and programs that were most favorable to the Debtors and in effect between such Vendor and the Debtors in the twelve-month period prior to the Petition Date or (ii) such other trade terms as agreed by the Debtors and such Vendor that, in the reasonable business judgment of the Debtors, are more favorable to the Debtors than the terms in the preceding clause (i).

(ii) that the Vendor immediately return such payment(s) in respect of its Vendor Claim to the extent that the aggregate amount of such payment(s) exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and (iii) upon recovery of such payment(s) by the Debtors, such Vendor Claim shall be reinstated in such an amount as to restore the Debtors and the applicable Vendor to their original positions, as if the payment of the Vendor Claim had not been made.

4. The form of Vendor Agreement, substantially in the form attached to the Motion as **Exhibit C**, is approved in its entirety. The Debtors are authorized to enter into Vendor Agreements with Vendors, in their discretion. To the extent that the Debtors do not enter into a Vendor Agreement with a Vendor, such Vendor's acceptance of payment on account of its Vendor Claim shall be deemed as the Vendor's agreement to continue providing goods or services on Customary Trade Terms.

5. The Debtors are authorized to negotiate, modify, or amend the form of the Vendor Agreement (provided that any such modification or amendment must require the Vendor to provide the trade terms set forth above) and to settle all or some of the Vendor Claims for less than the face amount of such claims without further notice or hearing, each in the Debtors' reasonable business judgment.

6. The Debtors are authorized to require, as a further condition of receiving payment on a Vendor Claim, that a Vendor agree to take whatever action is necessary to remove any existing liens on the Debtors' property at such Vendor's sole cost and expense and waive any right to assert a trade lien on account of a paid Vendor Claim.

7. Any party that accepts payments from the Debtors on account of a Vendor Claim shall be deemed to have agreed to the terms and provisions of this Interim Order. Notwithstanding

anything to the contrary herein, prior to making any payment pursuant to this Interim Order, the Debtors shall provide such Vendor with a copy of this Interim Order (unless previously provided to such Vendor).

8. If any party accepts payment on behalf of a Vendor Claim under this Interim Order, and such claim is determined by the Court after notice and hearing (i) in the case of a Lien Claim, not to give rise to a Lien or Interest or (ii) in the case of a 503(b)(9) Claim, not to give rise to a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code, the Debtors are authorized to avoid such payment as a postpetition transfer under section 549 of the Bankruptcy Code, and the party who had accepted such payment shall be required to immediately repay to the Debtors any payment made to such party on account of its asserted claim to the extent the aggregate amount of such payments exceeds the postpetition obligations then outstanding, without the right of setoff, claims, or otherwise. Upon recovery of such payments by the Debtors, the obligations shall be reinstated as a prepetition claim in the amount so recovered.

9. All undisputed obligations arising from the Outstanding Orders shall receive administrative expense priority, and the Debtors are authorized to pay all undisputed obligations arising from the Outstanding Orders in their discretion and in the ordinary course of business consistent with the parties' prepetition customary practices.

10. Nothing herein shall impair or prejudice the Debtors' or any other party in interest's ability to contest the extent, perfection, priority, validity, or amount of any Vendor Claim.

11. Nothing herein shall prejudice the Debtors' ability to seek a further order from this Court authorizing the Debtors to exceed the aggregate amounts of Vendor Claims as set forth in the Motion and herein or any party in interest's right to contest such relief.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

13. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

14. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Vendor Claims.

15. The Debtors shall deliver to the Office of the United States Trustee for the Northern District of Texas a list of the Critical Vendors to be paid pursuant to this Interim Order.

16. For the avoidance of doubt, this Interim Order does not authorize payments to insiders (as such term is defined in section 101(31) of the Bankruptcy Code) of the Debtors.

17. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any prepetition claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights

under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

18. Notwithstanding anything in this Interim Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the “*DIP Order*”); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

19. Bankruptcy Rule 6003(b) has been satisfied.

20. The requirements of Bankruptcy Rule 6004(a) are waived.

21. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon entry of this Interim Order.

22. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

End of Order

Order submitted by:

VINSON & ELKINS LLP

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Matthew D. Struble (Texas Bar No. 24102544)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule "I"

Interim Cash Management Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	Re: Docket No. 20

**INTERIM ORDER (I) AUTHORIZING
THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR
CASH MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK
ACCOUNTS, (B) CONTINUE USING EXISTING CHECKS AND BUSINESS FORMS,
(C) MAINTAIN THEIR CORPORATE CARD PROGRAM, AND (D) CONTINUE
INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF**

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an interim order (the “*Interim Order*”) (i) authorizing the Debtors to: (a) continue to operate their Cash Management System and maintain existing Bank Accounts; (b) continue using their existing Checks and Business Forms; (c) maintain their Corporate Card Program; and (d) continue to engage in Intercompany Transactions and (ii) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is **HEREBY ORDERED THAT:**

1. The final hearing (the “*Final Hearing*”) on the Motion shall be held on June 5, 2024, at 9:30 a.m., prevailing Central Time. Any objections or responses to entry of a final order

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

on the Motion shall be filed on or before 5:00 p.m., prevailing Central Time, on May 31, 2024, and shall be served on: (i) the Debtors, 4630 Olin Road, Dallas, TX 75244, Attn: Geoff Walker; (ii) proposed attorneys to the Debtors, Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3900, Dallas, TX 75201, Attn: Matthew D. Struble, and 1114 Avenue of the Americas, 32nd Floor, New York, New York 10036, Attn: Lauren R. Kanzer; (iii) counsel to the administrative agent under the Debtors' prepetition secured credit agreement, Katten Muchin Rosenman LLP, 50 Rockefeller Plaza, New York, NY 10020, Attn: Cindi M. Giglio; (iv) counsel to the buyer under the Debtors' prepetition asset purchase agreement, King & Spalding LLP, 1185 Avenue of the Americas, 34th Floor, New York, NY 10036, Attn: Roger Schwartz and Miguel Cadavid; and (v) the Office of the United States Trustee for the Northern District of Texas, 1100 Commerce Street, Room 976, Dallas, TX 75242, Attn: Meredyth A. Kippes.

2. The Debtors are authorized, on an interim basis, in the ordinary course of business and consistent with prepetition practices to (i) maintain and continue to operate the Cash Management System in accordance with the Motion, (ii) maintain and continue to use any or all of their existing Bank Accounts, including, but not limited to the Bank Accounts identified on **Exhibit C** to the Motion; and (iii) deposit funds in and withdraw funds from any of the Bank Accounts by all usual means, including, but not limited to, checks, wire transfers, ACH transfers and debits, electronic fund transfers, and other debits; *provided*, that the Debtors will make a reasonable effort to request that JPMorgan designate all of the Bank Accounts maintained at JPMorgan as debtor-in-possession accounts; *provided, further*, that the Debtors shall provide notice to the U.S. Trustee, any statutory committee appointed in these chapter 11 cases, and counsel to the Prepetition Secured Lender of any material changes to their Cash Management System (including, but not limited to, any prospective closing of Bank Accounts) within 14 days.

3. The Debtors shall have until June 24, 2024, to either bring the Bank Account at CMB into compliance with section 345(b) of the Bankruptcy Code and the U.S. Trustee Guidelines or to make such other arrangements as are agreed to by the U.S. Trustee or approved by the Court, subject to further extension. The Debtors will attach the applicable CMB account statements to their monthly operating reports, with account numbers redacted.

4. The Debtors shall have until June 24, 2024 to either convert or redesignate the Bank Accounts maintained at JPMorgan to debtor in possession accounts in compliance with section 345(b) of the Bankruptcy Code and the U.S. Trustee Guidelines, or to make such other arrangements as are agreed to by the U.S. Trustee or approved by the Court, subject to further extension.

5. The requirements of the U.S. Trustee Guidelines are hereby waived with respect to the Debtors' existing Bank Accounts at HSBC, and the Debtors are authorized to maintain and continue to use such Bank Accounts in the ordinary course of business; *provided, however*, that the Debtors shall use reasonable efforts to ensure that amounts in the Bank Accounts at HSBC do not exceed \$250,000. The Debtors will attach the applicable HSBC account statements to their monthly operating reports, with account numbers redacted.

6. The Banks are each authorized and directed to maintain, service, and administer the Bank Accounts without interruption on an interim basis and in the ordinary course of business.

7. The Debtors are authorized to pay any undisputed, outstanding Bank Fees owed to the Banks as of the Petition Date and to continue to pay the Bank Fees on an interim basis in the ordinary course of business.

8. The Debtors are authorized to continue the Corporate Card Program and to pay any prepetition or postpetition amounts related thereto.

9. The Debtors are authorized to use, in their present form, the Checks and Business Forms, without reference to their status as debtors-in-possession or the case number assigned to these chapter 11 cases; *provided* that once the Debtors' existing Checks and Business Forms have been exhausted, the Debtors shall include, or direct others to include, the designation "Debtor in Possession" and the corresponding bankruptcy case number on all Checks and Business Forms as soon as it is reasonably practicable to do so.

10. The Debtors are authorized to enter into and engage in postpetition Intercompany Transactions on an interim basis in the ordinary course of business. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all Intercompany Claims as a result of any ordinary course postpetition Intercompany Transactions are hereby accorded administrative expense priority status; *provided*, that such administrative expense status claim shall be junior to any superpriority administrative expense status claim granted as part of the adequate protection given pursuant to the DIP Orders (as defined below). In connection therewith, the Debtors shall continue to maintain current records with respect to all transfers of cash in the ordinary course of business consistent with their practices prior to the Petition Date such that Intercompany Transactions can be readily ascertained and traceable; *provided, however*, that such records shall be made available upon request by the Consenting Creditor Representatives, the U.S. Trustee, or any statutory committee appointed in these Chapter 11 cases. To the extent that the transfers within the Cash Management System are disbursements, they will be noted and reflected on the monthly operating reports.

11. The Debtors will comply with the monthly operating report requirements (i) for reporting intercompany transactions and (ii) to report cash activity on an unconsolidated basis, in each case in accordance with the instructions for U.S. Trustee Form 11-MOR.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

13. The Banks are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

14. Any bank, including the Banks, may rely upon the representations of the Debtors with respect to whether any check, draft, wire, payment order, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court, and no bank that honors such a prepetition check, draft, wire, payment order, or other transfer drawn on any Bank Account (i) at the direction of the Debtors or (ii) in a good-faith belief that this Court has authorized such prepetition check, draft, wire, payment, or other transfer to be honored shall be deemed to be, nor shall be, liable to the Debtors or their estates or any other party on account thereof or otherwise be deemed to be in violation of this Interim Order.

15. The Debtors are authorized to issue new postpetition checks, wire transfers, or electronic fund transfer requests to replace any prepetition checks, wire transfers, or funds transfers that may be dishonored or rejected as a result of the commencement of these chapter 11 cases with respect to prepetition amounts that are authorized to be paid pursuant to this Interim Order.

16. The Debtors are authorized to open new bank accounts; *provided, however*, that all accounts opened by the Debtors on or after the Petition Date shall be at depositories that are (i) insured by the FDIC or the Federal Savings and Loan Insurance Corporation, (ii) designated as an authorized depository by the U.S. Trustee pursuant to the U.S. Trustee Guidelines, and (iii) with a bank that agrees to be bound by the terms of this Interim Order; *provided further*,

however, that such opening shall be timely indicated on the Debtors' monthly operating reports and notice of such opening or closing shall be provided to the U.S. Trustee, any statutory committee appointed in these chapter 11 cases, and counsel to the Prepetition Secured Lender within 14 days.

17. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' or any party in interest's rights to subsequently dispute such claim or lien, a promise or requirement to pay any prepetition claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

18. Notwithstanding anything in this Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the "**DIP Order**"); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

19. Bankruptcy Rule 6003(b) has been satisfied.

20. The requirements of Bankruptcy Rule 6004(a) are waived.

21. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon entry of this Interim Order.

22. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

End of Order

Order submitted by:

VINSON & ELKINS LLP

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “J”

Employee Wages Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 18

**ORDER (I) AUTHORIZING
THE DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, OTHER
COMPENSATION, AND REIMBURSABLE EXPENSES AND (B) CONTINUE
EMPLOYEE BENEFITS PROGRAMS, AND (II) GRANTING RELATED RELIEF**

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Order*”) (i) authorizing the Debtors to

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors’ U.S. corporate headquarters and the Debtors’ service address is: 4630 Olin Road, Dallas, TX 75244.

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

(a) pay prepetition wages, salaries, other compensation, and reimbursable expenses and (b) continue employee benefits programs, and (ii) granting related relief, all as more fully set forth in the Motion and in the First Day Declaration; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The Debtors are authorized to pay and honor prepetition amounts related to the Compensation and Benefits Programs in an aggregate amount not to exceed \$206,300 and to continue paying postpetition amounts related to the Compensation and Benefits Programs (including, for the avoidance of doubt, funding of Wages to the Chinese Employees and the Dutch Employees as necessary), in the ordinary course of business; *provided*, that the Debtors shall not honor any prepetition Employee Compensation and Benefits Obligations that exceed the priority amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code and shall not pay any prepetition amounts on account of Expense Reimbursements that exceed the priority amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

2. The Debtors are authorized to pay the Unpaid Employee Severance Obligations for the former Employees who had signed a separation agreement as of the Petition Date, and the Debtors may seek to pay the Unpaid Employee Severance Obligations to former Employees who sign a separation agreement after the Petition Date either by separate motion or pursuant to the Plan.

3. The Debtors are authorized to continue and/or modify, change, and discontinue the Compensation and Benefits Programs in the ordinary course of business in accordance with this Order during these chapter 11 cases and consistent with historical practices and without the need for further Court approval.

4. Nothing herein shall be deemed to authorize the payment of any amounts in violation of section 503(c) of the Bankruptcy Code.

5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts authorized to be paid pursuant to this Order.

8. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any prepetition claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

9. Notwithstanding anything in this Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the "*DIP Order*"); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

10. The requirements of Bankruptcy Rule 6004(a) are waived.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

12. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

Schedule “K”

Interim DIP Order



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed May 14, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	Re: Docket Nos. 22, 23

**INTERIM ORDER
PURSUANT TO 11 U.S.C. §§ 105, 361, 362,
363, 364, AND 507 AND FED. R. BANKR. P. 2002, 4001
AND 9014 (I) AUTHORIZING DEBTORS AND DEBTORS
IN POSSESSION TO OBTAIN POSTPETITION SENIOR
SECURED SUPERPRIORITY FINANCING, (II) AUTHORIZING
THE DEBTORS TO USE CASH COLLATERAL, (III) GRANTING
LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION TO THE
PREPETITION SECURED PARTIES, (V) MODIFYING THE AUTOMATIC STAY,
(VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF**

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

Upon the motion (the “**Motion**”) of the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) pursuant to §§ 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), and 364(d) of title 11 of the United States Code (the “**Bankruptcy Code**”), and Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the “**Bankruptcy Rules**”), and the General Order Regarding Procedures for Complex Cases (the “**Complex Case Procedures**”) made applicable by Rules 4001-1 and 9013-1 of the Local Bankruptcy Rules (the “**N.D. Tex. L.B.R.**”) for the United States Bankruptcy Court for the Northern District of Texas (the “**Court**”) *inter alia* seeking, among other things:

(1) authorization for KidKraft, Inc. (“**KidKraft**” or “**Borrower**”) to obtain, and for KidKraft Intermediate Holdings, LLC (“**HoldCo**”, and together with the other Guarantors listed in Schedule 1 of the DIP Term Sheet, the “**Guarantors**”) to guarantee, unconditionally, on a joint and several basis, a senior secured super-priority multi-draw debtor-in-possession term loan credit facility (the “**DIP Facility**”) on the terms and conditions set forth in the Priming Superpriority Debtor-In-Possession Financing Term Sheet, dated as of April 25, 2024, attached hereto as **Exhibit A** (as amended, supplemented or otherwise modified from time to time in accordance with the terms and conditions set forth herein and including the references to the Prepetition Credit Agreement (as defined below) specified therein, the “**DIP Term Sheet**”),² by and among the Borrower, the Guarantors, GB Funding, LLC, as DIP Agent (“**DIP Agent**”), and 1903 Partners, LLC, as DIP Lender (“**DIP Lender**,” and, together with the DIP Agent, the “**DIP Secured Parties**”), and the other DIP Documents (as defined below) consisting of: (i) \$4.0 million of new money loans (the “**Interim DIP Commitment**”) to be provided following entry of the Interim Order

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the DIP Term Sheet, as applicable.

by DIP Lender, (ii) \$6.5 million of new money loans (“*Final DIP Commitment*”) to be provided following entry of the Final Order by DIP Lender; (iii) \$23.3 million of Prepetition Obligations, which will be deemed to have been advanced and shall convert into DIP Loans on a dollar-for-dollar cashless basis upon entry of the Final Order (the “*Roll-Up Amount*”, and together with the Interim DIP Commitment and Final DIP Commitment, the “*DIP Commitment*”), and in accordance with this order (the “*Interim Order*”), secured by perfected senior priority security interests in and liens on the DIP Collateral (as defined below) pursuant to §§ 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code (subject to the Carve-Out and the Permitted Liens (each as defined below));

(2) authorization for Borrower and Guarantors to remit all collections, asset proceeds and payments to the DIP Secured Parties for application, or deemed application, first to the repayment of all DIP Obligations (as defined below) in accordance with the DIP Term Sheet and the other DIP Documents until such obligations are fully repaid, and then to the Prepetition Secured Parties for application until all Prepetition Obligations (as defined below) are fully repaid;

(3) authorization for the Debtors to grant superpriority administrative claim status, pursuant to § 364(c)(1) of the Bankruptcy Code, to DIP Agent, for the benefit of itself and DIP Lender, in respect of all DIP Obligations (subject to the Carve-Out);

(4) as set forth below, subject to Section 4.1 of this Interim Order, approval of certain stipulations by the Debtors as set forth in this Interim Order in connection with the Prepetition Credit Agreement;

(5) authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become due, including, without limitation, continuing commitment fees, closing fees, audit fees, appraisal fees, liquidator fees,

structuring fees, administrative agent's fees, the reasonable and documented fees and disbursements of DIP Agent's and DIP Lender's respective attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with, the applicable DIP Documents;

(6) as set forth below, authorization to use Cash Collateral and all other Prepetition Collateral and to provide adequate protection to Prepetition Agent and Prepetition Lender (each in their respective capacities under the Prepetition Loan Documents (as defined below)), to the extent set forth herein;

(7) effective only upon entry of a Final Order (as defined below), the waiver of the Debtors' right to assert claims to surcharge against the DIP Collateral pursuant to § 506(c) of the Bankruptcy Code;

(8) the modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order to the extent hereinafter set forth;

(9) the setting of a final hearing on the Motion ("**Final Hearing**") to consider entry of a final order (the "**Final Order**") authorizing, among other things, the borrowing under the DIP Documents on a final basis, as set forth in the Motion and the DIP Term Sheet filed with the Court, including the granting to DIP Agent and DIP Lender the senior security interests and liens described above and super-priority administrative expense claims (subject to the Carve-Out); and

(10) related relief.

The initial hearing on the Motion having been held by the Court on May 13, 2024 (the "**Interim Hearing**"), and upon the record made by the Debtors at the Interim Hearing, including the Motion, the *Declaration of Geoffrey Walker in Support of Chapter 11 Petitions and*

First Day Pleadings, the *Declaration of Ajay Bijoor, Managing Director of Robert W. Baird & Co. Incorporated*, in Support of (I) the Debtors' Motion to Obtain Postpetition Debtor in Possession Financing and (II) the Sale Process, the *Declaration of Carl Moore, Manager of SierraConstellation Partners, LLC* in Support of the Debtors' Motion to Obtain Postpetition Debtor in Possession Financing, and the filings and pleadings in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), the Court having found that the relief requested in the Motion is in the best interests of Debtors, their estates, their creditors and other parties in interest, and represents a sound exercise of the Debtors' business judgment and is essential for the continued operation of the Debtors' businesses; it appearing to the Court that granting the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing; notice of the Motion, the relief requested therein, and the Interim Hearing (the "**Notice**") was sufficient under the circumstances; the Notice having been served by the Debtors in accordance with Bankruptcy Rules 4001 and 9014 and the Local Rules on (i) the administrative agent under the Prepetition Credit Agreement (the "**Prepetition Agent**"), (ii) Katten Muchin Rosenman LLP, as counsel to the Prepetition Agent, (iii) the Office of the U.S. Trustee for the Northern District of Texas (the "**U.S. Trustee**"), (iv) King & Spalding LLP, as counsel to the buyer under the Debtors' prepetition asset purchase agreement (the "**APA**"), (v) the holders of the thirty (30) largest unsecured claims, on a consolidated basis, against the Estates (the "**30 Largest Unsecured Creditors**"), (vi) the Internal Revenue Service and applicable state taxing authorities; (vii) any party that has asserted or may assert a lien in the Debtors' assets, (viii) the office of attorneys general for the states in which the Debtors operate; (ix) the United States Attorney's Office for the Northern District of Texas, (x) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002, (xi) the United

States Securities and Exchange Commission, (xii) all other applicable government agencies to the extent required by the Bankruptcy Rules or the N.D. Tex. L.B.R, and (xiii) the DIP Lender (collectively, the “*Notice Parties*”); and the opportunity for a hearing on the Motion was appropriate and no other notice need be provided; and after due deliberation sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW³:

A. Petition. On May 10, 2024 (the “*Petition Date*”), each Debtor filed a voluntary petition (each, a “*Petition*”) under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

B. Disposition. The Motion is hereby granted in accordance with the terms of this Interim Order. Any objections to the Motion with respect to the entry of the Interim Order that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled.

C. Jurisdiction and Venue. The Court has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 1334. The Motion is a “core” proceeding as defined in 28 U.S.C. § 157(b), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

D. Committee Formation. As of the date hereof, the U.S. Trustee has not yet appointed an official committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (a “**Committee**”).

E. Basis for Relief. The statutory and legal predicates for the relief sought herein include sections 105, 361, 362, 363, 364 and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 9013 and 9014 and the applicable provisions of the Local Rules.

F. Notice. Proper, timely, adequate, and sufficient notice of the Motion has been provided under the circumstances in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required.

G. Debtors’ Acknowledgments, Stipulations, and Agreements. After consultation with their attorneys and financial advisors, and without prejudice to the rights of any Committee appointed in these Chapter 11 Cases or other parties-in-interest as and, subject to Section 4.1 of this Interim Order, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge and agree that:

(a) Prepetition Stipulations

(i) Prepetition Loan Documents. Prior to the commencement of the Chapter 11 Cases, Prepetition Agent and Prepetition Lender made loans, advances and provided other financial accommodations to Borrower and KidKraft Netherlands B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands (the “**Dutch Borrower**”), jointly and severally with respect to the Priority Revolving Loans (as defined in the Prepetition Credit Agreement), Guarantors and certain of their non-Debtor affiliates (the Dutch Borrower, together with the other non-Debtor affiliates

party to the Prepetition Credit Agreement, “*Non-Debtor Loan Parties*”), pursuant to the terms and conditions set forth in (1) that certain Amended and Restated First Lien Credit Agreement dated as of April 3, 2020 (as amended, supplemented, or otherwise modified prior to the Petition Date, the “*Prepetition Credit Agreement*”); (2) that certain Amended and Restated First Lien Security Agreement as of dated April 3, 2020 by and among Borrower, the Guarantors, and the Non-Debtor Loan Parties (the Non-Debtor Loan Parties, together with the Borrower and the Guarantors, the “*Grantors*”) and Prepetition Agent, as Secured Party (as amended, supplemented, or otherwise modified prior to the Petition Date, including the *Security Agreement Supplement*, dated January 30, 2024, the “*Prepetition Security Agreement*”); and (3) all other agreements, documents and instruments executed and/or delivered with, to, or in favor of Prepetition Agent or Prepetition Lender in connection with the Prepetition Credit Agreement or the Prepetition Security Agreement, including, without limitation, all security agreements, notes, guarantees, mortgages, Uniform Commercial Code financing statements and all other related agreements, documents and instruments executed and/or delivered in connection therewith or related thereto (all of the foregoing, together with the Prepetition Credit Agreement and the Prepetition Security Agreement, as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date, collectively, the “*Prepetition Loan Documents*”).

(ii) Prepetition Obligations. As of the Petition Date, the Borrower, Guarantors and Non-Debtor Loan Parties were indebted, jointly and severally, to Prepetition Agent and Prepetition Lender under the Prepetition Loan Documents in respect of outstanding Loans (as defined in the Prepetition Credit Agreement) in an aggregate principal amount of not less than \$144.9 million, plus all other Obligations (as defined in the Prepetition Credit Agreement), plus

interest accrued and accruing thereon, together with all costs, fees, expenses (including attorneys' fees and legal expenses) and other charges accrued, accruing or chargeable with respect thereto (collectively, the "***Prepetition Obligations***"). The Prepetition Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Borrower, Guarantors, and the Non-Debtor Loan Parties and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and the Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, cause of action, counterclaim, setoff or defense of any kind, nature or description, in any such case, arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order, which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Obligations or liens and security interest securing the same described in clause (F)(a)(iii) below, including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law. The Debtors and their estates (a) have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against Prepetition Agent or Prepetition Lender or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Loan Documents or Prepetition Obligations; and (b) have waived, discharged, and released any right to challenge any of the Prepetition Obligations, including the priority of the Prepetition Obligations, and the validity, extent, and priority of the liens securing the Prepetition Obligations.

(iii) Prepetition Collateral. As of the Petition Date, the Prepetition Obligations were fully secured pursuant to the Prepetition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens (except, in the case of perfection, for (A) Excluded Accounts and (B) commercial tort claims, letter of credit rights, certificate of title vehicles, and other assets, in each case of this clause (B), to the extent expressly excluded from the requirement to perfect liens thereon pursuant to the Prepetition Loan Documents) (the “*Prepetition Liens*”) granted by Borrower, Guarantors, and the Non-Debtor Loan Parties for fair consideration and reasonably equivalent value to DIP Agent, for the benefit of itself and DIP Lender under the Prepetition Loan Documents, in and upon all of the of the Debtors’ and Non-Debtor Loan Parties’ assets and property other than Excluded Assets, Excluded Receivables, and Consumer Goods (as each such term is defined in the Prepetition Credit Agreement) (collectively, the “*Prepetition Collateral*”), including all cash of the Debtors, wherever located, and all cash equivalents, including any cash in deposit accounts of the Debtors (other than Excluded Accounts), in each case, whether as Prepetition Collateral or which represents income, proceeds, products, rents or profits of non-cash Prepetition Collateral (collectively, the “*Cash Collateral*”), subject only to the liens permitted under Section 7.01 of the Prepetition Credit Agreement to the extent that such security interests, liens or encumbrances are (A) valid, perfected and non-avoidable security interests, liens or encumbrances securing valid, binding and unavoidable debt permitted under the Prepetition Loan Documents, and (B) senior to, have not been, and are not subject to being subordinated to the Prepetition Liens or otherwise avoided, and, in each instance, only for so long as and to the extent that such encumbrances are and remain senior and outstanding (hereinafter referred to as the “*Prepetition Permitted Liens*”). The Debtors do not possess and will not assert any claim, counterclaim, setoff or defense of any kind, nature or

description, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 (including, without limitation, sections 510, 544, 547, 548, 549 or 550) of the Bankruptcy Code or under any other similar provisions of applicable state or federal law, that would in any way affect the validity, enforceability and non-avoidability of any of Prepetition Agent's and Prepetition Lender's liens, claims or security interests in the Prepetition Collateral.

(iv) Default by the Debtors. The Debtors acknowledge and stipulate that one or more Events of Default (as defined in the Prepetition Credit Agreement) have occurred and are continuing as of the date hereof.

(v) Proof of Claim. The acknowledgment by the Debtors of the Prepetition Obligations and the liens, rights, priorities and protections granted to or in favor of Prepetition Agent and Prepetition Lender in respect of the Prepetition Collateral as set forth herein and in the Prepetition Loan Documents shall be deemed a timely filed proof of claim on behalf of Prepetition Agent and Prepetition Lender in these Chapter 11 Cases.

(vi) Indemnity. The DIP Agent, DIP Lender, and Prepetition Secured Parties have acted in good faith, without negligence or violation of public policy or law, in respect of all actions taken by them in connection with or related in any way to negotiating, implementing, or obtaining the requisite approvals of the DIP Facility and the use of Cash Collateral, including in respect of granting DIP Liens, any challenges or objections to the DIP Facility or the use of Cash Collateral, and all documents related to any and all transactions contemplated by the foregoing. Accordingly, each of the Prepetition Secured Parties and the DIP Secured Parties shall be and hereby are indemnified and held harmless by the Debtors in respect of any claim or liability incurred in respect thereof of in any way related thereto, provided that no such parties will be

indemnified for any cost, expense, or liability to the extent determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such parties' bad faith, gross negligence, fraud, or willful misconduct. No exception or defense exists in contract, law, or equity to the Debtors' obligation under this paragraph to indemnify and/or hold harmless each of the Prepetition Secured Parties and the DIP Secured Parties. The Court retains exclusive jurisdiction to determine amounts of any indemnification claims arising from the DIP Documents unless such amounts are *de minimis*.

(vii) Release. Each Debtor, on behalf of itself and its successors and assigns, and their respective agents, officers, directors, employees, attorneys, professionals, predecessors, successors, and assigns (collectively, the "**Releasors**"), hereby forever, unconditionally, permanently, and irrevocably release, discharge, and acquit each of the Prepetition Agent and Prepetition Lender and each of their respective successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives (collectively, the "**Prepetition Releasees**") of and from any and all claims, demands, liabilities, damages, expenses, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every kind, nature and description, whether arising in law or otherwise, and whether known or unknown, matured, or contingent that any of the Releasors had, have or hereafter can or may have against any Prepetition Releasees as of the date hereof, in respect of events that occurred on or prior to the date hereof with respect to the Debtors, the Prepetition Obligations, the Prepetition Loan Documents, the DIP Obligations, the RSA, the Plan, the Backyard Sale, the DIP Documents and any DIP Loans or other financial accommodations made by DIP Agent and/or DIP Lender to the Debtors pursuant to the Prepetition Loan Documents or the DIP Documents including, without limitation, (a) any so-called "lender liability" or

equitable subordination claims or defenses, (b) any and all “claims” (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims, set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether arising at law or in equity, including any recharacterization, recoupment, subordination, avoidance, or other claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law, including, without limitation, any right to assert any disgorgement or recovery, in each case, with respect to the extent, amount, validity, enforceability, priority, security, and perfection of any of the Prepetition Obligations, the Prepetition Loan Documents, or the Prepetition Liens.

(viii) Non-Debtor Loan Parties. The Dutch Borrower and the Borrower are jointly and severally liable with respect to the Priority Revolving Loans (as defined in the Prepetition Credit Agreement) and each of the other Non-Debtor Loan Parties and the Debtors are jointly and severally liable with respect to the Prepetition Obligations.

H. Findings Regarding the DIP Financing.

(i) DIP Financing. The Debtors have requested from the DIP Secured Parties, and the DIP Secured Parties are willing, to extend certain loans, advances and other financial accommodations on the terms and conditions set forth in this Interim Order, the DIP Term Sheet and the other DIP Documents, respectively.

(ii) Need for DIP Financing. The Debtors do not have sufficient available sources of working capital, including Cash Collateral, to operate their businesses in the ordinary course of business without the financing requested in the Motion. The Debtors’ ability to pay their vendors, suppliers, and employees, and to otherwise fund their operations is essential to the

preservation and maintenance of the going concern value of each Debtor and consummation of the Backyard Sale and the Plan. Accordingly, the Debtors have an immediate need to enter into the DIP Facility in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy estates (as defined under § 541 of the Bankruptcy Code, the "*Estates*") in order to maximize the value of the Estates.

(iii) No Credit Available on More Favorable Terms. The Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under §§ 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code or in exchange for the grant of a superpriority administrative expense, junior liens on encumbered property of the Estates, or liens on property of the Estates not subject to a lien pursuant to § 364(c)(1), 364(c)(2) or 364(c)(3) of the Bankruptcy Code. The Debtors have been unable to procure the necessary financing on terms more favorable, taken as a whole, than the DIP Facility. In light of the foregoing, and considering all alternatives, the Debtors have reasonably and properly concluded, in the exercise of their sound business judgment, the DIP Facility represents the best financing available to the Debtors at this time, and are in the best interests of the Debtors, their respective Estates, and all of their stakeholders.

(iv) Initial Budget. The Debtors have prepared and delivered to DIP Agent and DIP Lender an initial nine-week budget (the "*Initial Budget*" and each subsequent approved budget pursuant to section 1.8 hereof, an "*Approved Budget*") reflecting the Debtors' anticipated cash receipts and anticipated disbursements for each calendar week for the covered periods, a summary of which is attached hereto as Exhibit B. The Initial Budget was prepared by the Debtors, with the assistance of their professional advisors and management, and the Debtors

represent that the Initial Budget is achievable in accordance with the terms of the DIP Documents and this Interim Order. DIP Agent and DIP Lender are relying upon the Debtors' compliance with the Initial Budget in accordance with this Interim Order in determining to enter into the DIP Facility.

(v) Business Judgment and Good Faith Pursuant to § 364(e). The terms of the DIP Documents and this Interim Order are fair, just and reasonable under the circumstances, ordinary and appropriate for secured financing to debtors-in-possession, reflect the Debtors' exercise of their prudent business judgment consistent with their fiduciary duties, and supported by reasonably equivalent value and fair consideration. The terms and conditions of the DIP Documents and this Interim Order have been negotiated in good faith and at arms' length by and among the Debtors and DIP Agent, with all parties being represented by competent counsel. Any credit extended under the terms of this Interim Order shall be deemed to have been extended in "good faith" by DIP Agent and DIP Lender, as that term is used in section 364(e) of the Bankruptcy Code and the DIP Obligations, the DIP Liens, and the DIP Superpriority Claim are entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

(vi) Credit Bid Rights. To the fullest extent permitted by section 363(k) of the Bankruptcy Code, in connection with any sale or other disposition of the DIP Collateral or Prepetition Collateral (as applicable) including any sales occurring under or pursuant to section 363 of the Bankruptcy Code, a plan of reorganization or plan of liquidation under section 1129 of the Bankruptcy Code, or a sale or disposition by a chapter 7 trustee for any of the Debtors under section 725 of the Bankruptcy Code (any of the foregoing sales or dispositions, a "**Sale**"), (a) DIP Agent (on behalf of their respective DIP Secured Parties) shall have the right to credit bid, in

accordance with the DIP Documents, up to the full amount of the DIP Obligations, (b) the Prepetition Agent (on behalf of and at the written direction of the Prepetition Secured Parties) shall have the right to credit bid, in accordance with the Prepetition Loan Documents, up to the full amount of the Prepetition Obligations, (c) DIP Agent and Prepetition Agent shall have the absolute right (at the direction of their respective Secured Parties) to assign, transfer, sell or otherwise dispose of its rights to credit bid in connection with the assignment, transfer, sale, or disposition of the corresponding DIP Obligations, except as may be set forth in the DIP Documents, and Prepetition Obligations, respectively, and (d) each of the Debtors hereby acknowledge and agree that they shall not object, or support any objection, to or limit, or support any limitation on, any other such DIP Secured Parties' or Prepetition Secured Parties' rights to credit bid, as applicable, up to the full amount of the DIP Obligations and Prepetition Obligations, respectively.

(vii) Sections 506(c) and 552(b) Waivers. Subject to entry of a Final Order, as material inducement to (a) the DIP Secured Parties' agreement to provide the DIP Facility and the Prepetition Secured Parties' consent to the use of Cash Collateral in accordance with the Approved Budget, (b) the DIP Secured Parties' agreement to subordinate the DIP Liens and the DIP Superpriority Claim to the Carve-Out, and (c) the Prepetition Secured Parties' agreement to subordinate the Prepetition Liens, Prepetition Replacement Lien and the Prepetition Adequate Protection Superpriority Claim to the Carve-Out, the DIP Liens, and the DIP Superpriority Claim, subject to entry of the Final Order (retroactive to the Petition Date), each of the DIP Secured Parties and the Prepetition Secured Parties are entitled to receive (1) a waiver of any equities of the case exceptions or claims under section 552(b) of the Bankruptcy Code and a waiver of unjust

enrichment and similar equitable relief as set forth below, and (2) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(viii) Good Cause. The relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors, their creditors and their Estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses and ongoing operations in anticipation of the consummation of the Backyard Sale and Plan, (2) preserve and maximize the value of the Estates for the benefit of all the Debtors' creditors, and (3) avoid immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

(ix) Adequate Protection. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363, and 364 of the Bankruptcy Code, to receive adequate protection to the extent of any Diminution in Value of their respective interests in the Prepetition Collateral (including Cash Collateral), to the extent set forth in the Interim Order.

(x) Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in the Chapter 11 Cases has filed or made an objection to the relief sought in the Motion or the entry of this Interim Order, or any objections that were made (to the extent such objections have not been withdrawn, waived, resolved, or settled) are hereby overruled. Based upon the foregoing, and after due consideration and good cause appearing therefor.

IT IS HEREBY ORDERED THAT:

Section 1. Authorization and Conditions to Financing.

1.1 Motion Granted. The Motion is granted in accordance with Bankruptcy Rule 4001(c)(2) to the extent provided in this Interim Order. Except as otherwise expressly

provided in this Interim Order, any objection to the entry of this Interim Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits.

1.2 Authorization to Borrow, Guaranty, and Use Loan Proceeds. Borrower is hereby authorized and empowered to immediately borrow and obtain DIP Loans and to incur indebtedness and other Obligations (as defined in the DIP Term Sheet) (collectively referred to as the “*DIP Obligations*”), and the Guarantors are hereby authorized to guarantee such DIP Obligations, all pursuant to the terms and conditions of this Interim Order, the DIP Term Sheet, and the other DIP Documents, during the period commencing on the date of entry of this Interim Order through and including the entry of the Final Order, up to an aggregate amount equal to the Interim DIP Commitment, plus, subject to entry of the Final Order, the Roll-Up Amount. Subject to the terms and conditions contained in this Interim Order and the DIP Documents, the Debtors shall use the proceeds of the DIP Loans and other credit and financial accommodations provided by DIP Agent and DIP Lender under the DIP Term Sheet and the other DIP Documents solely for payment of expenses set forth in the Approved Budget and all interest, costs, fees, amounts, and other obligations owing to the DIP Secured Parties in accordance with the terms and conditions of the DIP Documents and this Interim Order.

1.3 Financing Documents

(a) Authorization. The Debtors are hereby authorized to enter into, execute, deliver, perform, and comply with all of the terms, conditions and covenants of the DIP Term Sheet and the other DIP Documents; provided that any additional DIP Documents entered into following entry of this Interim Order shall be filed on the docket of these Chapter 11 Cases, and parties in interest shall have seven (7) days to object to such additional DIP Documents. If no objection to such additional DIP Documents is filed within such seven (7) days, unless the Court

rules otherwise, such DIP Documents shall be deemed approved by this Court. If any objection is filed within such seven (7) day period, the Court shall hold an emergency hearing to consider approval of such DIP Document. Upon execution and delivery of the DIP Term Sheet and the other DIP Documents, such agreements and documents shall constitute valid and binding obligations of the Debtors, enforceable against each Debtor party thereto in accordance with the terms of such agreements, documents and this Interim Order. No obligation, payment, transfer or grant of security arising under the DIP Term Sheet, the other DIP Documents or this Interim Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under § 502(d) of the Bankruptcy Code), or be subject to any defense, reduction, setoff, recoupment or counterclaim. The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, expenses and other amounts described in the DIP Documents as such become due and without need to obtain further Court approval, including, without limitation, monitoring fees, agency fees, alternate transaction fees, closing fees, unused facility fees, continuing commitment fees, backstop fees, exit fees, servicing fees, yield maintenance premiums, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees, the reasonable and documented fees and disbursements of the DIP Secured Parties' attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Interim Order or the DIP Documents. Upon execution and delivery, the DIP Term Sheet and other DIP Documents shall represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their Estates in accordance with their terms.

(b) Approval; Evidence of Borrowing Arrangements. All terms, conditions and covenants set forth in the DIP Documents (including, without limitation, the DIP Term Sheet) are approved to the extent necessary to implement the terms and provisions of this Interim Order. All such terms, conditions and covenants shall be sufficient and conclusive evidence of (a) the borrowing arrangements by and among the Debtors, DIP Agent and DIP Lender, and (b) each Debtor's assumption and adoption of all of the terms, conditions, and covenants of the DIP Term Sheet and the other DIP Documents for all purposes, including, without limitation, to the extent applicable, the payment of all DIP Obligations arising thereunder, including, without limitation, all principal, interest, fees and other expenses, including, without limitation, all of DIP Agent's and DIP Lender's consultant fees, professional fees, attorney fees and legal expenses, as more fully set forth in the DIP Documents.

(c) Amendment. Subject to the terms and conditions of the DIP Term Sheet and the other DIP Documents, Debtors and DIP Agent may amend, modify, supplement or waive any provision of the DIP Documents (a "***DIP Amendment***") without further approval or order of the Court, so long as (a) such DIP Amendment is not materially burdensome on the Debtors or their Estates, and is undertaken in good faith by DIP Agent, DIP Lender and the Debtors; (b) the Debtors provide prior written notice of the DIP Amendment (the "***DIP Amendment Notice***") to the U.S. Trustee and counsel to any Committee, or in the event no such Committee is appointed at the time of such DIP Amendment, the 30 Largest Unsecured Creditors, and (c) the Debtors file the DIP Amendment Notice with the Court; provided, however, that neither consent of the parties notified pursuant to section (b) hereof nor approval of the Court will be necessary to effectuate any such amendment, modification or supplement. Any material DIP Amendment to the DIP Documents must be approved by the Court to be effective.

1.4 Payment of Prepetition Debt. Subject to entry of the Final Order, the Debtors are authorized to repay all Prepetition Obligations in accordance with the DIP Term Sheet, the other DIP Documents and this Interim Order, including, without limitation, Sections 1.5 and 1.6 of this Interim Order.

1.5 Payments and Application of Payments & DIP Collateral Proceeds; Roll-Up. The Debtors are authorized and directed to make all payments and transfers of Estate property to DIP Agent as provided for, permitted and/or required under the DIP Term Sheet and the other DIP Documents, which payments and transfers shall not be avoidable or recoverable from DIP Agent or DIP Lender under §§ 547, 548, 550, 553 or any other section of the Bankruptcy Code, or by reason of any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law or otherwise. All proceeds of the DIP Collateral (as defined herein) received by DIP Agent or DIP Lender, and any other amounts or payments received by DIP Agent or DIP Lender in respect of the DIP Obligations, may be applied or deemed to be applied by DIP Agent, in its discretion, first, to the indefeasible repayment of the DIP Obligations, and then to the indefeasible repayment in full of the Prepetition Obligations, all in accordance with the DIP Term Sheet, the other DIP Documents and this Interim Order. Without limiting the generality of the foregoing, the Debtors are authorized without further order of the Court to pay or reimburse DIP Agent and DIP Lender for future costs and expenses, including, without limitation, all professional fees, consultant fees and legal fees and expenses paid or incurred by DIP Agent or DIP Lender in connection with the financing transactions as provided in this Interim Order and the DIP Documents, all of which shall be and are included as part of the principal amount of the DIP Obligations and secured by the DIP Collateral.

1.6 Continuation of Prepetition Procedures. Except to the extent expressly set forth in the DIP Documents, all prepetition practices and procedures for the payment and collection of proceeds of the Prepetition Collateral (as defined herein), the turnover of cash, the delivery of property to Prepetition Agent and Prepetition Lender, and any blocked depository bank account arrangements, are hereby approved and shall continue without interruption after the commencement of the Chapter 11 Cases.

1.7 Indemnification. Subject to entry of the Final Order, the Debtors are authorized to indemnify and hold harmless each of the Prepetition Secured Parties and DIP Secured Parties, each of their respective successors, assigns, affiliates, parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders and employees, past, present, and future, and their respective heirs, predecessors, successors and assigns in accordance with, and subject to the terms of, the DIP Documents, which indemnification is hereby authorized and approved. The Court retains exclusive jurisdiction to determine amounts of any indemnification claims arising from the DIP Documents unless such amounts are *de minimis*.

1.8 Approved Budget; Permitted Variances; Debtor Professional Reports.

(a) The Debtors shall use Cash Collateral and the proceeds of the DIP Facility solely in accordance with the Approved Budget and the DIP Documents. Commencing on the Monday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time) and continuing on the two (2)-week anniversary thereafter (or such other times as the Debtors may elect with the consent of DIP Lender and Backyard Products, LLP (the “*Purchaser*”)), the Debtors shall deliver to DIP Agent, and the United States Trustee an updated budget with the form and level of detail set forth in the Initial Budget, and shall include, weekly basis cash revenues, receipts,

expenses, professional fees and other disbursements (including, without limitation, any payments with respect to real property leases), net cash flows, inventory receipts and other items on a line item basis (including all necessary and required expenses that the Debtors expect to incur and anticipated uses of proceeds of draws under the DIP Facilities). If such budget is in form and substance satisfactory to DIP Agent in its sole discretion and consented to by the Purchaser (such consent not to be unreasonably withheld, conditioned, or delayed, other than line items of the budget pertaining to the Reimbursement Amounts (as defined in the APA) or which impact the Purchase Price (as defined in the APA), for which such consent shall be in the discretion of the Purchaser), it shall constitute the “Approved Budget” for purposes of this Interim Order. Any amendments, supplements or modifications to the Approved Budget shall be subject to the prior written approval of DIP Lender in its sole discretion and the prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned, or delayed, other than line items of the budget pertaining to the Reimbursement Amounts or which impact the Purchase Price, for which such consent shall be in the discretion of the Purchaser), prior to the implementation thereof. Notwithstanding anything to the contrary herein, Purchaser shall not have any consent rights with respect to the Approved Budget following any breach by Purchaser of the APA or termination of the APA.

(b) Commencing on the Wednesday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time), and on a weekly basis thereafter (or at such other times as the Debtors may elect with the consent of DIP Lender) the Debtors shall deliver to DIP Lender a variance report in form and substance reasonably acceptable to DIP Lender (an “*Approved Variance Report*”) showing comparisons of actual results for each line item against such line item in the Approved Budget. Thereafter, the Debtors shall deliver to DIP Lender, an Approved

Variance Report on a weekly basis for (a) the preceding week, and (b) the trailing four (4) week period (or, if fewer than four (4) weeks have lapsed since the Petition Date, then for the trailing one, two or three week period, as applicable). Any amendments, supplements or modifications to an Approved Variance Report shall be subject to the prior written approval of DIP Lender in its sole discretion.

(c) Each Approved Variance Report shall indicate whether there are any adverse variances that exceed any of the Permitted Variances. “*Permitted Variances*” shall mean variances: (a) up to 15% of the aggregate for all cash disbursements line-items in the Approved Budget (other than fees and expenses of counsel to the DIP Secured Parties and Professional Persons), (b) less than 20% of the aggregate for all cash receipts in the Approved Budget, and (c) up to 15% of all fees and expenses incurred on a per-Professional Person basis (the “*Professional Fee Variance*”), in each case calculated weekly on a rolling four (4) week basis commencing as of the Petition Date, with the first such testing of (a) and (b) to begin three (3) weeks from the Petition Date, and the Professional Fee Variance testing set forth in (c) shall be performed weekly beginning the week following the Petition Date and not on a rolling four (4) week basis.

(d) If any Professional Person exceeds the Professional Fee Variance, such Professional Person will make a representative available to meet and confer with DIP Lender as soon as practicable and no later than two (2) Business Days after delivery of such Approved Variance Report, to discuss a good faith modification to the Approved Budget (the “*Meet and Confer*”). If DIP Lender and such Professional Person cannot mutually agree on a modification following the Meet and Confer, DIP Lender may, in its sole discretion, declare an Event of Default, consistent with the provisions herein.

(e) Commencing on the Monday of the first full calendar week after the Petition Date and continuing weekly thereafter, each Debtor Professional shall submit a report of the prior

week's accrued fees and expenses to the DIP Agent (the "***Debtor Professional Report***"). The DIP Agent shall review the Debtor Professional Reports, may test the accrued fees and expenses in the Debtor Professional Report against the Professional Fee Variance, and must submit a written objection (if any) to the applicable Debtor Professional no later than two (2) Business Days following delivery of the Debtor Professional Report (the "***Review Period***"). If the DIP Agent does not submit a written objection at the close of the Review Period, the Debtors shall fund the full amount of accrued fees and expenses in such Debtor Professional Report into the Professional Carve Out Reserve Account. If the DIP Agent submits a written objection to the Debtor Professional Report prior to the end of the Review Period, the DIP Agent and the applicable Debtor Professional shall conduct a Meet and Confer within two (2) Business Days. At the conclusion of the Meet and Confer, if the DIP Agent elects to declare an Event of Default, the Debtors shall only fund an amount not to exceed 150% of such Debtor Professional's budgeted amount as set forth in the Approved Budget for the period covered by such Debtor Professional Report. For the avoidance of doubt, any Event of Default or other action taken by the DIP Agent shall not impact any amounts previously funded in the Funded Reserve Account in compliance with the procedures herein. For the avoidance of doubt, the DIP Agent's request for a Meet and Confer shall not (in and of itself absent an Event of Default declaration) impact any terms of the DIP Documents, including any subsequent reporting and testing as set forth herein, nor the DIP Secured Parties' obligations to loan and the Debtors' obligations to fund the Funded Reserve Account in accordance with the DIP Documents after a Meet and Confer is requested.

Section 2. DIP Liens; Superpriority Administrative Claim Status.

2.1 DIP Liens.

(a) Granting of DIP Liens. To secure the prompt payment and performance of any and all DIP Obligations of the Debtors to DIP Agent and DIP Lender of

whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, DIP Agent, for the benefit of itself and DIP Lender, shall have and is hereby granted, effective as of the Petition Date, valid and perfected first-priority security interests and liens, superior to all other liens, claims or security interests that any creditor of any of the Estates may have (subject only to the Carve-Out and the Permitted Liens), in and upon all assets and property (whether tangible, intangible, real, personal or mixed), wherever located, whether now owned or owing to, or hereafter acquired by, or arising in favor of each Debtor and its respective chapter 11 estate, and any and all proceeds therefrom, including, without limiting the generality of the foregoing, all cash, Cash Collateral, accounts, accounts receivable, inventory, property, plant and equipment, real estate, leaseholds, equity interests, intellectual property, and upon entry of the Final Order, the proceeds of any avoidance actions under chapter 5 of the Bankruptcy Code (all of the foregoing collectively, the “*DIP Collateral*”). The DIP Collateral shall also include any rents, issues, products, proceeds, and profits generated by any item of DIP Collateral, without the necessity of any further action of any kind or nature by DIP Agent to claim or perfect such rents, issues, products, or proceeds.

(b) Priority of DIP Liens. The liens and security interests of DIP Agent and DIP Lender granted under the DIP Documents and this Interim Order on the DIP Collateral securing all DIP Obligations shall be first and senior in priority to all other interests and liens of every kind, nature and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or interests granted in favor of third parties in conjunction with §§ 363, 364 or any other section of the Bankruptcy Code or other applicable law; provided, however, that DIP Agent’s and DIP Lender’s liens on and security interests in the DIP Collateral shall be subject only to (a) such priming liens or interests imposed by applicable non-

bankruptcy law that are in existence as of the Petition Date, and are otherwise unavoidable (collectively, “*Permitted Liens*”) and (b) the Carve-Out. The right of a seller of goods to reclaim any goods whether under section 546(c) of the Bankruptcy Code or otherwise shall not be a Permitted Lien or Prepetition Lien; rather, any such alleged claim arising or asserted as a right of reclamation shall have the same rights and priority with respect to the DIP Liens, Prepetition Liens and Prepetition Payment Liens, as such claims had with respect to the Prepetition Liens.

(c) Right of Repayment. The right of DIP Agent and DIP Lender to repayment in accordance with the DIP Documents and this Interim Order from the sale or other disposition of the DIP Collateral, or any proceeds thereof, shall be first and senior in priority to all other rights of repayment of every kind, nature, and description (other than the Carve-Out).

(d) Perfection of DIP Liens and Prepetition Replacement Lien. This Interim Order shall be sufficient and conclusive evidence of the priority, perfection and validity of all liens and security interests granted herein, including the DIP Liens and the Prepetition Replacement Lien, which shall be effective as of the Petition Date, without any further act and without regard to any other federal, state or local requirements or law requiring notice, filing, registration, recording or possession of the DIP Collateral, or other act to validate or perfect such security interest or lien, including without limitation control agreements with any deposit bank or with any other financial institution(s) holding a depository account or other account consisting of or containing Collateral (a “*Perfection Act*”). Notwithstanding the foregoing, if DIP Agent or Prepetition Agent, as applicable, shall, in its sole discretion, elect for any reason to file, record or otherwise effectuate any Perfection Act, then such DIP Agent or Prepetition Agent is authorized to perform such act, and the Debtors and Guarantors are authorized to perform such act to the extent necessary or required by the DIP Documents, which act or acts shall be deemed to have

been accomplished as of the date and time of entry of this Interim Order notwithstanding the date and time actually accomplished, and in such event, the subject filing or recording office is authorized to accept, file or record any document in regard to such act in accordance with applicable law. DIP Agent or Prepetition Agent, as applicable, may choose to file, record or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file or record such certified copy of this Interim Order in accordance with applicable law. Should DIP Agent or Prepetition Agent, as applicable, so choose and attempt to file, record or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive or alter the validity, enforceability, attachment, or perfection of the DIP liens and security interests granted herein by virtue of the entry of this Interim Order.

(e) Nullifying Prepetition Restrictions to DIP Financing.

Notwithstanding anything contained in any prepetition agreement, contract, lease, document, note or instrument to which any Debtor is a party or under which any Debtor is obligated, except as otherwise permitted under the DIP Documents, any provision that restricts, limits or impairs in any way any Debtor from granting DIP Agent security interests in or liens upon any of the Debtors' assets or properties (including, among other things, any anti-lien granting or anti-assignment clauses in any leases or other contractual arrangements to which any Debtor is a party) under the DIP Documents or this Interim Order, as applicable, or otherwise entering into and complying with all of the terms, conditions and provisions hereof or of the DIP Documents, shall not (a) be effective and/or enforceable against any of the Debtors, DIP Agent or DIP Lender, as applicable, or (b) adversely affect the validity, priority or enforceability of the liens, security interests, claims, rights, priorities and/or protections granted to DIP Agent and DIP Lender

pursuant to this Interim Order or the DIP Documents, in each case, to the maximum extent permitted under the Bankruptcy Code and other applicable law.

(f) To the extent that any applicable non-bankruptcy law otherwise would restrict the granting, scope, enforceability, attachment, or perfection of any liens and security interests granted and created by this Interim Order (including the DIP Liens and the Prepetition Replacement Liens) or otherwise would impose filing or registration requirements with respect to such liens and security interests, such law is hereby pre-empted to the maximum extent permitted by the Bankruptcy Code, applicable federal or foreign law, and the judicial power and authority of the Court. By virtue of the terms of this Interim Order, to the extent that any DIP Agent or Prepetition Agent, as applicable, has filed Uniform Commercial Code financing statements, mortgages, deeds of trust, or other security or perfection documents under the names of any of the Debtors (including all Guarantors), such filings shall be deemed to properly perfect its liens and security interests granted and confirmed by this Interim Order without further action by the applicable DIP Agent or Prepetition Agent, as applicable.

(g) Except with respect to the Carve-Out, certain Permitted Liens, the DIP Liens, the DIP Superpriority Claims, the Prepetition Replacement Liens, and the Prepetition Adequate Protection Superpriority Claims (i) shall not be made subject to or *pari passu* with (A) any lien, security interest, or claim heretofore or hereinafter granted in any of these Chapter 11 Cases or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Chapter 11 Cases against the Debtors (such converted cases, “*Successor Cases*”), their respective Estates, any trustee, or any other estate representative appointed or elected in these Chapter 11 Cases or any Successor Cases and/or upon the dismissal of any of these Chapter 11 Cases or any Successor Cases; (B) any lien that is avoided and preserved for the benefit of the Debtors and their

respective Estates under section 551 of the Bankruptcy Code or otherwise; and (C) any intercompany or affiliate lien or claim; and (ii) shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code.

2.2 Superpriority Administrative Expense Claims. For all DIP Obligations now existing or hereafter arising pursuant to this Interim Order or the DIP Documents, DIP Agent, for the benefit of itself and DIP Lender, is granted an allowed superpriority administrative claim pursuant to § 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of the Debtors (other than the Carve-Out), whether now in existence or hereafter incurred by the Debtors, and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, inter alia, §§ 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 364(c)(1), 546(c), 726, 1113 or 1114 of the Bankruptcy Code (other than the Carve-Out), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtors and all proceeds thereof (the “*DIP Superpriority Claim*”).

2.3 Carve-Out.

(a) Carve-Out. As used in this Interim Order, the “*Carve-Out*” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate; (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code; (iii) to the extent allowed or permitted to be paid at any time, whether by interim order, procedural order, or otherwise, all accrued and unpaid fees, disbursements, costs, and expenses (the “*Allowed Professional Fees*”) incurred by persons or

firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “**Debtor Professionals**”) and by any Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “**Committee Professionals**” and, together with the Debtors’ Professionals, “**Professional Persons**”) at any time before or on the first business day following delivery by DIP Agent to the Debtors of a Carve-Out Trigger Notice (as defined below), but shall not include any restructuring, sale, transaction or other “success” fee except for such fee earned by Robert W. Baird & Co. Inc. in its capacity as investment banker to the Debtors during such time; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$150,000 incurred after the first business day following delivery by DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (this section (iv) the “**Post-Carve-Out Trigger Notice Cap**”); and (v) an amount up to the amount secured by and necessary to fund the Canadian Priority Charges (as defined in the DIP Term Sheet) for the beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings. For purposes of the foregoing, “**Carve-Out Trigger Notice**” shall mean a written notice delivered by email (or other electronic means) by DIP Agent to the Debtors and the Committee (if any), which notice may be delivered in the sole discretion of DIP Agent following the occurrence of an Event of Default, and shall describe the Event of Default, state that the DIP Facility is terminated and that the Post-Carve-Out Trigger Notice Cap has been invoked.

(b) Pre-Carve-Out Trigger Notice Funding. Commencing on the Friday of the first full calendar week following the Petition Date and on a weekly basis thereafter, the DIP Secured Parties shall loan and the Debtors shall fund, using borrowings from the DIP Facility, Cash Collateral, or cash on hand, a segregated account (the “**Funded Reserve Account**”) held by the Debtors in trust and solely for the benefit of the Debtor Professionals in an amount equal to the

amount of applicable Professional Fees set forth in the Approved Budget, subject to the objection procedures described in Section 1.8(d) hereof and the Prepetition Secured Parties' and DIP Secured Parties' reversionary interest in any unused amounts. The Debtors shall pay only Allowed Professional Fees from the Funded Reserve Account, and all payments of Allowed Professional Fees incurred prior to the Carve-Out Termination Date shall be paid first from such Funded Reserve Account, provided that this shall not be a limitation on payment of Allowed Professional Fees from sources other than the Funded Reserve Account in the event the Funded Reserve Account does not have sufficient funds or has not be funded as provided above.

(c) Post-Carve-Out Trigger Notice Funding. On the day on which a Carve-Out Trigger Notice is given by the DIP Agent to counsel for the Debtors and the Committee (the "***Carve-Out Termination Date***"), the Carve-Out Trigger Notice shall be deemed a draw request and notice of borrowing hereunder and also a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund (A) the Funded Reserve Account in an amount equal to the sum of (x) the amounts set forth in paragraphs (a)(i)-(iii) above, plus (y) the total amount of unpaid Allowed Professional Fees set forth in the "Professional Fees (Escrow Account Funding)" line item of the Approved Budget for any time before or on the first business day following the Carve-Out Termination Date, to the extent not already funded in accordance with Section 2.3(b) hereof, whether such fees have become Allowed Professional Fees prior to the Carve-Out Termination Date, plus (z) the amount set forth in paragraph (a)(v) above to an account designated by the Information Officer in the CCAA Recognition Proceedings for the beneficiaries of the Canadian Priority Charges (the "***Canadian Priority Reserve Account***"); and (B) a segregated escrow account held by the Debtors in trust for the benefit of Professional Persons in an amount equal to the Post-Carve-Out Trigger Notice Cap

(the “*Post-Carve-Out Trigger Notice Reserve Account*” and, together with the Funded Reserve Account and the Canadian Priority Reserve Account, the “*Carve-Out Reserve Accounts*”). Prepetition Agent’s, Prepetition Lender’s, DIP Agent’s, and DIP Lender’s, in each case to the fullest extent applicable, claims, liens and security interests in any property of the Debtors, including, without limitation, the Prepetition Collateral, the DIP Collateral, Cash Collateral, the Prepetition Adequate Protection Superpriority Claim (as defined below), the DIP Superpriority Claim, any other adequate protection or superpriority claim, and any junior pre- or post-petition lien, interest or claim in favor of any other party, shall be subordinate to the Allowed Professional Fee Claims of the Professional Persons and other beneficiaries thereof as to all funds in the Carve-Out Reserve Accounts.

(d) No Direct Obligation To Pay Allowed Professional Fees. None of the DIP Secured Parties or Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code provided that the Carve-Out Reserve Accounts shall have been fully funded from cash on hand, Cash Collateral, or proceeds of the DIP Facility. Nothing in this Interim Order shall be construed to obligate any of the DIP Secured Parties or Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement, provided that the Carve-Out Reserve Accounts shall have been fully funded, and provided that this shall not be a limitation on payment of Allowed Professional Fees from sources other than the Carve-Out Reserve Accounts in the event the Carve-Out Reserve Accounts does not have sufficient funds or has not be funded as provided above. Notwithstanding anything herein, nothing shall require the

DIP Secured Parties or Prepetition Secured Parties to provide any funding in excess of the DIP Commitment.

(e) Payment of Allowed Professional Fees Prior to the Carve-Out Termination Date. Any payment or reimbursement made prior to the occurrence of the Carve-Out Termination Date in respect of any Allowed Professional Fees shall not reduce the Carve-Out; *provided* that, upon the full funding of the Carve-Out Reserve Accounts following the Carve-Out Termination Date, the Debtors' authorization to use Cash Collateral to fund the Carve-Out Reserve Accounts shall cease, and the liens and claims of the DIP Agent and DIP Lender shall cease being subordinated to the Carve-Out, each with respect to and to the extent of the amounts so funded.

(f) Payment of Carve-Out on or After the Carve-Out Termination Date. Any payment or reimbursement made on or after the occurrence of the Carve-Out Termination Date in respect of any Allowed Professional Fees shall permanently reduce the Carve-Out on a dollar-for-dollar basis. Any funding of the Carve-Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code, and applicable law.

2.4 Payment of Carve-Out.

Payment from the Carve-Out Reserve Accounts, whether by or on behalf of DIP Agent or DIP Lender, shall not and shall not be deemed to reduce the DIP Obligations, and shall not be deemed to subordinate any of any of DIP Agent's or DIP Lender's liens and security interests in the Prepetition Collateral, any other DIP Collateral, the Prepetition Adequate Protection Superpriority Claim, or the DIP Superpriority Claim to any junior pre- or post-petition lien, interest or claim in favor of any other party other than the Carve-Out for Professional Persons.

2.5 Excluded Professional Fees.

(a) Notwithstanding anything to the contrary in this Interim Order, no DIP Collateral (or proceeds thereof) nor any DIP Loans or any other credit or financial accommodations provided under or in connection with the DIP Documents shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional Person in connection with any of the following:

(i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order, judgment, determination or similar relief: (A) challenging the legality, validity, priority, perfection, or enforceability of (I) the Prepetition Obligations or any Prepetition Secured Parties' liens on and security interests in the Prepetition Collateral or (II) the DIP Obligations or any DIP Secured Parties' liens on and security interests in the DIP Collateral; (B) invalidating, setting aside, avoiding, recharacterizing or subordinating, in whole or in part, (I) the Prepetition Obligations or any Prepetition Secured Parties' liens on and security interests in the Prepetition Collateral or (II) the DIP Obligations or any DIP Secured Parties' liens on and security interests in the DIP Collateral; or (C) preventing, hindering or delaying DIP Agent's or DIP Lender's assertion or enforcement of any lien, claim, right or security interest or realization upon any DIP Collateral in accordance with the terms and conditions of the DIP Term Sheet, the DIP Documents, and this Interim Order other than reasonable and documented fees in connection with a good faith challenge of an asserted Event of Default and related Carve-Out Trigger Notice;

(ii) a request made to this Court to use Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code) without the prior written consent of DIP Agent and Prepetition Agent;

(iii) a request made to this Court for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to section 364(c) or section 364(d) of the Bankruptcy Code or otherwise incur Indebtedness (as defined in the Prepetition Credit Agreement) without the prior written consent of DIP Agent (except to the extent permitted under the DIP Documents);

(iv) the commencement or prosecution of any action or proceeding of any claims, causes of action or defenses against any DIP Secured Party or Prepetition Secured Party or any of their respective officers, directors, employees, agents, attorneys, affiliates, successors or assigns, including, without limitation, any attempt to recover or avoid any claim or interest or disgorge any payments under chapter 5 of the Bankruptcy Code or any applicable state law equivalents;

(v) the cost of a Committee's investigation into any claims against any Prepetition Secured Parties arising under or in connection with the Prepetition Loan Documents in excess of \$25,000 (the "***Committee Investigation Budget***"); provided that no portion of the Committee Investigation Budget may be used to seek formal discovery or commence any challenge, objection, or prosecute any such Challenge, claims or causes of actions; or

(vi) any act which has or could directly, materially and adversely modify or compromise the rights and remedies of any of the DIP Secured Parties or Prepetition Secured Parties under this Interim Order, or which directly results in the occurrence of an Event of Default under this Interim Order or any DIP Documents.

2.6 Limited Use of Cash Collateral; Adequate Protection.

(a) Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Term Sheet, the DIP Documents, and in accordance with the Approved Budget, Borrower shall be and are hereby authorized to use Cash Collateral for the period commencing on the date of this Interim Order and terminating on the Carve-Out Termination Date, subject to the liens and security interests granted to Prepetition Agent and Prepetition Lender; provided that during the Remedies Notice Period (as defined herein) the Debtors may use Cash Collateral solely for the following amounts and expenses: (i) to fund the Carve-Out Reserve Accounts in accordance with Section 2.3 above; and (ii) to pay expenses critical to the administration of the Estates, as agreed by DIP Agent in its sole discretion. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors or their Estates outside the ordinary course of business, or any Debtor's use of Cash Collateral or other proceeds resulting therefrom, except as expressly permitted in this Interim Order, the DIP Documents and in accordance with the Approved Budget.

(b) Prepetition Replacement Lien. As adequate protection for the diminution in value of their interests in the Prepetition Collateral (including Cash Collateral) on account of the Borrower's use of such Prepetition Collateral (including Cash Collateral), the imposition of the automatic stay and the subordination to the Carve-Out on a dollar-for-dollar basis (collectively, the "***Diminution in Value***"), Prepetition Agent, for the benefit of itself and Prepetition Lender, is hereby granted pursuant to §§ 361 and 363 of the Bankruptcy Code, and solely to the extent of the Diminution in Value, valid, binding, enforceable and perfected replacement liens upon and security interests in all DIP Collateral (the "***Prepetition Replacement Lien***"). The Prepetition Replacement Lien shall be junior and subordinate only to (A) the Carve-

Out, (B) the Permitted Liens, and (C) the DIP Liens on the DIP Collateral to secure the DIP Obligations, and shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral.

(c) Prepetition Adequate Protection Superpriority Claim. As adequate protection for the Diminution in Value, Prepetition Agent, for the benefit of itself and Prepetition Lender, is hereby granted, solely to the extent of the Diminution in Value, an allowed superpriority administrative expense claim pursuant to sections 503(b), 507(a), and 507(b) of the Bankruptcy Code in each of the Chapter 11 Cases and any successor bankruptcy cases (the “*Prepetition Adequate Protection Superpriority Claim*”). The Prepetition Adequate Protection Superpriority Claim shall be junior only to (A) the Carve-Out, and (B) the DIP Superpriority Claim, and shall otherwise have priority over all administrative expense claims and unsecured claims against the Debtors and their Estates now existing or hereafter arising, of any kind or nature whatsoever.

(d) Adequate Protection Payments and Protections. Upon entry of this Interim Order, as further adequate protection (the “*Adequate Protection Payments*”) for the Diminution in Value, the Debtors are authorized and directed to provide adequate protection to the Prepetition Secured Parties in the form of payment in cash (regardless of the Approved Budget, and regardless of any Diminution in Value) for (i) the reasonable, documented fees, expenses, and disbursements (including without limitation, the reasonable and documented fees, expenses, and disbursements of counsel and third-party consultants and other vendors, including without limitation, financial advisors and auditors) incurred by Prepetition Secured Parties arising prior to the Petition Date, and (ii) the reasonable, documented fees, expenses, and disbursements (including without limitation, the fees, expenses, and disbursements of counsel and third-party

consultants and other vendors, including without limitation, financial advisors and auditors) incurred by Prepetition Secured Parties arising subsequent to the Petition Date.

Section 3. Default; Rights and Remedies; Relief from Stay.

3.1 Events of Default. The occurrence of any of the following events shall constitute an “**Event of Default**” under this Interim Order: (a) any Debtor’s failure to perform, in any respect, any of their obligations under this Interim Order; or (b) the occurrence of an “Event of Default” under the DIP Term Sheet or any of the other DIP Documents, including the following:

- (a) after the first applicable testing date, the occurrence of any deviation from the Approved Budget that is greater than the Permitted Variances; *provided, that*, the DIP Lender may only declare an Event of Default arising from any deviation from the Professional Fee Variance if the DIP Lender and such Professional Person cannot mutually agree to a good faith modification during the Meet and Confer;
- (b) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents, DIP Orders, the Canadian DIP Recognitions Orders or Approved Budget;
- (c) modification by the Debtors of the DIP Secured Parties’ rights under the DIP Documents, DIP Orders or the Canadian DIP Recognition Orders;
- (d) failure of any of the Chapter 11 Milestones to be satisfied;
- (e) failure by any Debtor to be in compliance in all material respects with the sections of the DIP Term Sheet entitled “Affirmative Consents” (and five (5) business days shall have elapsed since the DIP Lender shall have given notice to the Debtors of such failure) and “Negative Covenants” or failure to otherwise be in compliance in all material respects with any other provision of this Term Sheet, the DIP Orders and the Canadian DIP Recognition Orders;
- (f) failure of any representation or warranty to be true and correct in all material respects;
- (g) filing of any application by the Debtors for the approval of (or an order is entered by the Court approving) any claim arising under section 507(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or any security, mortgage, collateral interest or other lien in any of the Chapter 11 Cases or CCAA Recognition Proceedings which is *pari passu* with or senior to the DIP Superpriority Claims or the DIP Liens, excluding liens arising under the DIP Orders or the Canadian DIP Recognition Orders, or pursuant to any other financing agreement made with the prior written consent of the DIP Agent;
- (h) the filing of any applications by the Debtors for approval of (or an order is entered by the Court authorizing) compensation or other amounts under any employee or

executive incentive or retention plans (or any similar sort of retention or incentive program) without the prior written consent of the DIP Secured Parties in their sole discretion;

- (i) any request made by the Debtors for, or the reversal, modification, amendment, stay, reconsideration or vacatur of the DIP Orders, as entered by the Bankruptcy Court or the Canadian DIP Recognition Orders, as entered by the CCAA Court, as applicable, without the prior written consent of the DIP Secured Parties;
- (j) the commencement of any action by the Debtors or other authorized person (other than an action permitted by the DIP orders or the Canadian DIP Recognition Orders) against any of the DIP Secured Parties or its agents and employees, to subordinate or avoid any liens made in connection with the DIP orders or the Canadian DIP Recognition Orders;
- (k) (1) the assertion by the Debtors in any pleading filed in any court that any material provision of the DIP Orders, the Canadian DIP Recognition Orders or the DIP Term Sheet is not valid and binding, or (2) any material provision of the DIP Orders, the Canadian DIP Recognition Orders or this Term Sheet shall for any reason, or any other order of this Court approving the Debtors' use of Cash Collateral, cease to be valid and binding (without the prior written consent of the DIP Secured Parties);
- (l) the filing with the Bankruptcy Court of any plan of reorganization or liquidation in any of the Chapter 11 Cases other than the Plan;
- (m) the appointment or entry in any of the Chapter 11 Cases of a trustee, receiver, examiner, or responsible officer with enlarged powers relating to the operation of business of any Debtor (powers beyond those set forth in sections 1106(a)(3) and (a)(4) of the Bankruptcy Code), unless such appointment or order has not been reversed, stayed, or vacated within thirty (30) days after the entry of such order;
- (n) the granting of relief from the automatic stay by the Bankruptcy Court or of the stay ordered by the CCAA Court to any other creditor or party in interest in the Chapter 11 Cases with respect to any portion of the DIP Collateral exceeding \$100,000 in value in the aggregate;
- (o) failure to pay principal, interest or other DIP Obligations in full in cash when due, including, without limitation, on the Maturity Date;
- (p) the allowance of any claim or claims under sections 506(c) and 552(b) against or with respect to any DIP Collateral;
- (q) withdrawal or material modification by the Debtors of any motion in connection with the Backyard Sale, without the consent of the DIP Secured Parties;
- (r) the Debtors seek to consummate an Alternative Transaction (as defined in the APA) without the prior written consent of the DIP Secured Parties;
- (s) the Plan is not confirmed or is changed without the DIP Secured Parties' consent, or the Plan Sponsor breaches (or is anticipated to breach) its obligations under the Plan;
- (t) the occurrence of any Material Adverse Change;

- (u) any termination of the RSA or APA;
- (v) the amount of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims (each as defined in the Plan) exceeds or is expected to exceed the Administrative Expense Claim, Priority Tax Claim, or Other Priority Claim Backstop Amount;
- (w) the occurrence of any Negative Purchase Variance under any Purchase Price Calculation; and
- (x) the conversion of any Chapter 11 Case to a Chapter 7 case(s), or any Debtor shall file a motion or other pleading seeking the conversion of any Chapter 11 Case to chapter 7 of the Bankruptcy Code or the making of an assignment bankruptcy by or entry by any Canadian Court of a bankruptcy order in respect of the Debtors under the BIA, or the entry of an order of any Canadian court appointing a receiver under the BIA over any DIP Collateral, in each case, without the prior written consent of DIP Agent.⁴

3.2 Rights and Remedies upon Event of Default. Upon the occurrence of an Event of Default, (a) the Debtors shall be bound by all restrictions, prohibitions and other terms as provided in this Interim Order, the DIP Term Sheet and the other DIP Documents, and (b) DIP Agent shall be entitled to take any act or exercise any right or remedy (subject to Section 3.4 below) as provided in this Interim Order or the DIP Term Sheet or any of the other DIP Documents, as applicable, including, without limitation, declaring all DIP Obligations immediately due and payable, accelerating the DIP Obligations, ceasing to extend DIP Loans, setting off any DIP Obligations with DIP Collateral or proceeds in DIP Agent's or DIP Lender's possession, and enforcing any and all rights with respect to the DIP Collateral. DIP Agent and DIP Lender shall have no obligation to lend or advance any additional funds to or on behalf of the Debtors, or provide any other financial accommodations to the Debtors, immediately upon or after the occurrence of an Event of Default or upon the occurrence of any act, event, or condition that, with the giving of notice or the passage of time, or both, would constitute an Event of Default.

⁴ Capitalized terms used but not otherwise defined in Section 3.1(a)-(x) shall have the meanings set forth in the DIP Facility Term Sheet.

3.3 Expiration of Loan Commitment. Upon the expiration, termination, or maturity of Borrower's authority to borrow or otherwise obtain other credit accommodations from DIP Agent and DIP Lender pursuant to the terms of this Interim Order and the DIP Documents (except if such authority shall be extended with the prior written consent of DIP Agent, which consent shall not be implied or construed from any action, inaction or acquiescence by DIP Agent or DIP Lender), unless an Event of Default set forth in Section 3.1 above occurs sooner and the automatic stay has been lifted or modified pursuant to Section 3.4 of this Interim Order, all of the DIP Obligations shall immediately become due and payable and DIP Agent and DIP Lender shall have no obligation whatsoever to make or extend any loans, advances, provide any financial or credit accommodations to the Debtors or permit the use of Cash Collateral.

3.4 Modification of Automatic Stay; Remedies Notice Period.

(a) The automatic stay provisions of section 362 of the Bankruptcy Code and any other restriction imposed by an order of the Court or applicable law are hereby modified without further notice, application or order of the Court to the extent necessary to permit DIP Agent and DIP Lender to perform any act authorized or permitted under or by virtue of this Interim Order or the DIP Documents, as applicable, including, without limitation, (I)(A) to implement the DIP financing arrangements authorized by this Interim Order and pursuant to the terms of the DIP Documents, (B) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the DIP Collateral, (C) to assess, charge, collect, advance, deduct and receive payments with respect to the Prepetition Obligations or the DIP Obligations, as applicable, including, without limitation, all interests, fees, costs and expenses permitted under the DIP Documents (subject to Section 5.12 of this Interim Order) and apply such payments to the Prepetition Obligations or DIP Obligations pursuant to the DIP Documents and/or

this Interim Order, as applicable, and (II) upon an Event of Default, (A) declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral, (B) to take any other action and exercise all other rights and remedies provided to it by this Interim Order, the DIP Documents or applicable law other than those rights and remedies subject to the expiration of the Remedies Notice Period, and (C) charge interest at the default rate under the DIP Documents.

(b) In addition, and without limiting anything in Section 3.4(a) hereof, upon the filing of a Carve-Out Trigger Notice on the docket of these Chapter 11 Cases and the expiration of the five (5) business day period thereafter (the “*Remedies Notice Period*”), DIP Agent, acting on behalf of itself and DIP Lender, without further notice, application or order of the Court, shall be entitled to take any action and exercise all rights and remedies provided to it by this Interim Order, the DIP Documents or applicable law that DIP Agent may deem appropriate in its sole discretion to proceed against and realize upon the DIP Collateral or any other assets or properties of the Estates upon which DIP Agent, for the benefit of itself and DIP Lender, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible repayment of all DIP Obligations. Notwithstanding anything to the contrary, any action that DIP Agent is otherwise permitted to take pursuant to this Interim Order to (i) terminate the DIP Commitments, (ii) accelerate the DIP Loans, (iii) send blocking notices or activation notices pursuant to the terms of any deposit account control agreement, and (iv) repay any amounts owing in respect of the DIP Obligations (including, without limitation, fees, indemnities and expense reimbursements), in each case, shall not require any advance notice to the Debtors. During the Remedies Notice Period, the Debtors, the Committee (if appointed), and/or any party in interest shall be entitled to seek an emergency hearing, and DIP Agent and DIP Lender shall consent to such emergency hearing so long as it occurs within the Remedies Notice Period; provided, that, (A) the sole issue the Debtors

may bring before the Court at any such emergency hearing is whether an Event of Default has occurred, and (B) if such emergency hearing cannot be scheduled prior to the expiration of the Remedies Notice Period solely as a result of the Court's unavailability, the Remedies Notice Period shall be automatically extended to the date that is one (1) business day after the first date the Court is available.

Section 4. Representations; Covenants; and Waivers.

4.1 Reservation of Third-Party Challenge Rights. Notwithstanding anything in this Interim Order, the stipulations, releases, agreements, and admissions contained in this Interim Order, including, without limitation, paragraph G hereof (collectively, the "**Debtors' Stipulations**"), shall be binding in all circumstances on the Debtors, their respective Estates and any successor (including, without limitation, any estate representative or a chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors with respect thereto) provided that, the Debtors' Stipulations shall be binding on each other party in interest, including, without limitation, the Committee (if any), unless (a) any such party in interest with standing and authority (which the DIP Secured Parties and Prepetition Secured Parties hereby agree may be sought on an emergency basis), including the Committee (if any), has timely filed a complaint or a motion seeking authority to commence litigation as a representative of the estate (a "**Challenge**") before the earliest of (i) the objection deadline for the Plan, (ii) sixty (60) calendar days from the date of appointment of the Committee by the U.S. Trustee, and (iii) seventy-five (75) calendar days from the Petition Date for all parties other than the Committee (if any) (the "**Challenge Period**") challenging the amount, validity, perfection, enforceability, priority, or extent of the Prepetition Obligations or Prepetition Liens, or otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims, or causes of action, objections, contests, or defenses with respect to the Prepetition Obligations or Prepetition

Liens and (b) such Challenge sets forth with specificity the basis for such challenge, and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever waived, released, and barred. For the avoidance of doubt, a party's commencement of a timely Challenge shall preserve the Challenge Period only with respect to such party. Nothing in this Interim Order vests or confers on any Person (as defined in the Bankruptcy Code), including the Committee (if any), standing or authority to pursue any Challenge or cause of action belonging to the Debtors or their respective Estates, including, without limitation, claims and defenses with respect to the Prepetition Credit Agreements or the Prepetition Liens on the Prepetition Collateral. If any Challenge is timely commenced, the Debtors' Stipulations shall nonetheless remain binding and conclusive (as provided in this paragraph) on the Debtors, the Committee (if any), and any other person or entity, except as to any specific findings and admissions that were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. If no such Challenge is timely and properly filed, or if a Challenge is timely and properly filed but denied, (i) the Prepetition Obligations shall be deemed allowed in full, shall not be subject to any setoff, recoupment, counterclaim, deduction or claim of any kind, and shall not be subject to any further objection or challenge by any party at any time, and the Prepetition Liens on and security interest in the Prepetition Collateral shall be deemed legal, valid, perfected, enforceable, and non-avoidable for all purposes and of first and senior priority, subject to only the Carve-Out and Permitted Liens, and (ii) Prepetition Agent and Prepetition Lender, and each of their respective participants, agents, officers, directors, employees, attorneys, professionals, successors, and assigns (each in their respective capacities as such) shall be deemed released and discharged from any and all claims and causes of action related to or arising out of the Prepetition Loan Documents,

and shall not be subject to any further objection or challenge relating thereto or arising therefrom by any party at any time. Nothing contained in this Section 4.1(a) shall or shall be deemed or construed to impair, prejudice or waive any rights, claims or protections afforded to DIP Agent or DIP Lender in connection with the DIP Documents, and any other post-petition financial and credit accommodations provided by DIP Agent and DIP Lender to the Debtors in reliance on section 364(e) of the Bankruptcy Code and in accordance with the terms and provisions of this Interim Order and the DIP Documents.

4.2 Debtors' Waivers. Prior to the indefeasible repayment in full in cash of all Prepetition Obligations and all DIP Obligations (“**Repayment in Full**”), any request by the Debtors of this Court without the prior consent of the DIP Agent with respect to the following shall also constitute an Event of Default: (a) to use Cash Collateral under section 363 of the Bankruptcy Code other than as provided in this Interim Order, (b) to obtain post-petition loans or other financial accommodations pursuant to section 364(c) or 364(d) of the Bankruptcy Code, other than as provided in this Interim Order or as may be otherwise expressly permitted pursuant to the DIP Documents, (c) to challenge the application of any payments authorized by this Interim Order as pursuant to section 506(b) of the Bankruptcy Code, or to assert that the value of the Prepetition Collateral is less than the Prepetition Obligations, (d) to propose, support or have a plan of reorganization or liquidation that is inconsistent with the Plan, Backyard Sale or RSA, or (e) to seek relief under the Bankruptcy Code, including without limitation, under section 105 of the Bankruptcy Code, to the extent any such relief would in any way restrict or impair the rights and remedies of DIP Agent or DIP Lender as provided in this Interim Order and the DIP Documents or DIP Agent’s or DIP Lender’s exercise of such rights or remedies; provided,

however, that DIP Agent may otherwise consent in writing, but no such consent shall be implied from any other action, inaction, or acquiescence by any DIP Secured Party.

4.3 Section 506(c) Claims. Subject to entry of the Final Order, no costs or expenses of administration which have or may be incurred in the Chapter 11 Cases shall be charged against DIP Agent or DIP Lender, their respective claims, or the DIP Collateral pursuant to §§ 105 or 506(c) of the Bankruptcy Code or otherwise without the prior written consent of DIP Agent, and no such consent shall be implied from any other action, inaction or acquiescence by DIP Agent or DIP Lender.

4.4 DIP Collateral Rights. Until the occurrence of Repayment in Full:

(a) no other party shall foreclose or otherwise seek to enforce any junior lien or claim in DIP Collateral and

(b) upon and after the delivery of a Carve-Out Trigger Notice and the expiration of the Remedies Notice Period, if requested by the DIP Agent in connection with such exercise of rights and remedies, the Debtors shall cooperate with the DIP Agent to, among other things, (i) make reasonable efforts to collect accounts receivable, without setoff by any account debtor, (ii) provide at all reasonable times access to the Debtors' premises to representatives or agents of the DIP Agent (including any collateral liquidator or consultant), (iii) provide the DIP Agent and their representatives or agents, at all reasonable times access to the Debtors' books and records and any information or documents requested by the DIP Agent or their respective representatives, (iv) perform all other obligations set forth in the DIP Documents, and (v) take reasonable steps to safeguard and protect the DIP Collateral.

4.5 Release of DIP Secured Parties. Subject to entry of the Final Order, each of the Releasors hereby forever, unconditionally, permanently, and irrevocably release, discharge, and acquit each of the DIP Secured Parties and their respective successors and assigns, and their

present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives (collectively, the “*DIP Releasees*”) of and from any and all claims, demands, liabilities, damages, expenses, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every kind, nature and description, whether arising in law or otherwise, and whether known or unknown, matured, or contingent that any of the Releasors had, have or hereafter can or may have against any DIP Releasees as of the date hereof, in respect of events that occurred on or prior to the date hereof with respect to the Debtors, the Prepetition Obligations, the Prepetition Loan Documents, the DIP Obligations, the RSA, the Plan, the Backyard Sale, the DIP Documents and any DIP Loans or other financial accommodations made by DIP Agent and/or DIP Lender to the Debtors pursuant to the Prepetition Loan Documents or the DIP Documents including, without limitation, any so-called “lender liability” claims or defenses, (a) any so-called “lender liability” or equitable subordination claims or defenses, (b) any and all “claims” (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims, set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether arising at law or in equity, including any recharacterization, recoupment, subordination, avoidance, or other claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law, including, without limitation, any right to assert any disgorgement or recovery, in each case, with respect to the extent, amount, validity, enforceability, priority, security, and perfection of any of the DIP Obligations, the DIP Documents, or the DIP Liens.

Section 5. Other Rights and DIP Obligations.

5.1 No Modification or Stay of This Interim Order. The DIP Agent and DIP Lender have acted in good faith in connection with the DIP Facility and with this Interim Order,

and their reliance on this Interim Order is in good faith, and the DIP Agent and DIP Lender are hereby entitled to the protections of section 364(e) of the Bankruptcy Code. Notwithstanding (a) any stay, modification, amendment, supplement, vacating, revocation or reversal of this Interim Order, the DIP Documents or any term hereunder or thereunder, (b) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (c) the dismissal or conversion of one or more of the Chapter 11 Cases (each, a “**Subject Event**”), (x) the acts taken by each of DIP Agent and DIP Lender in accordance with this Interim Order, and (y) the DIP Obligations incurred or arising prior to DIP Agent’s actual receipt of written notice from the Debtors expressly describing the occurrence of such Subject Event shall, in each instance, be governed in all respects by the original provisions of this Interim Order, and the acts taken by DIP Agent and DIP Lender in accordance with this Interim Order, and the liens granted to DIP Agent and DIP Lender in the DIP Collateral, and all other rights, remedies, privileges, and benefits in favor of DIP Agent and DIP Lender pursuant to this Interim Order and the DIP Documents shall remain valid and in full force and effect pursuant to section 364(e) of the Bankruptcy Code. For purposes of this Interim Order, the term “appeal”, as used in section 364(e) of the Bankruptcy Code, shall be construed to mean any proceeding for reconsideration, amending, rehearing, or re-evaluating this Interim Order by the Court or any other tribunal.

5.2 Power to Waive Rights; Duties to Third Parties. DIP Agent and Prepetition Agent, as applicable, shall have the right to waive any of the terms, rights and remedies provided or acknowledged in this Interim Order that are in favor of the DIP Secured Parties and Prepetition Secured Parties, respectively (the “**Lender Rights**”), and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any Lender Right(s). Any waiver by DIP Agent or Prepetition Agent of any Lender Rights shall not be or

constitute a continuing waiver unless expressly provided therein. Any delay in or failure to exercise or enforce any Lender Right shall neither constitute a waiver of such Lender Right, subject any of the DIP Secured Parties or Prepetition Secured Parties to any liability to any other party, nor cause or enable any party other than the Debtors to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtors to any of the DIP Secured Parties or Prepetition Secured Parties.

5.3 Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral outside the ordinary course of business, other than pursuant to the terms of the DIP Term Sheet, this Interim Order, and the Approved Budget, without the prior written consent of DIP Agent (and no such consent shall be implied, from any other action, inaction or acquiescence by DIP Agent or DIP Lender) and, in each case, an order of the Court.

5.4 Inventory. The Debtors shall not, without the consent of DIP Agent, (a) enter into any agreement to return any inventory to any of their creditors for application against any prepetition indebtedness under any applicable provision of section 546 of the Bankruptcy Code, or (b) consent to any creditor taking any setoff against any of its prepetition indebtedness based upon any such return pursuant to section 553(b)(1) of the Bankruptcy Code or otherwise.

5.5 Reservation of Rights. The terms, conditions and provisions of this Interim Order are in addition to and without prejudice to the rights of each DIP Secured Party and Prepetition Secured Party to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Documents, the Prepetition Loan Documents, or any other applicable agreement or law, including, without limitation, rights to seek adequate protection and/or additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose any

request for use of cash collateral or granting of any interest in the DIP Collateral or Prepetition Collateral, as applicable, or priority in favor of any other party, to object to any sale of assets, and to object to applications for allowance and/or payment of compensation of Professional Persons or other parties seeking compensation or reimbursement from the Estates and to pursue any and all rights and remedies against any Non-Debtor Loan Party.

5.6 Binding Effect.

(a) The provisions of this Interim Order and the DIP Documents, the DIP Obligations, the Prepetition Adequate Protection Superpriority Claim, the DIP Superpriority Claim and any and all rights, remedies, privileges and benefits in favor of each of DIP Agent and DIP Lender provided or acknowledged in this Interim Order, and any actions taken pursuant thereto, shall be effective immediately upon entry of this Interim Order notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h) and 7062, shall continue in full force and effect, and shall survive entry of any such other order converting one or more of the Chapter 11 Cases to any other chapter under the Bankruptcy Code, or dismissing one or more of the Chapter 11 Cases.

(b) Any order dismissing one or more of the Chapter 11 Cases under section 1112 or otherwise shall be deemed to provide (in accordance with §§ 105 and 349 of the Bankruptcy Code) that (a) the DIP Superpriority Claim and DIP Agent's and DIP Lender's liens on and security interests in the DIP Collateral and all other claims, liens, adequate protections and other rights granted pursuant to the terms of this Interim Order shall continue in full force and effect notwithstanding such dismissal until Repayment in Full, and (b) the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing all such claims, liens, protections and rights.

(c) In the event the Court modifies any of the provisions of this Interim Order or the DIP Documents following a Final Hearing, such modifications shall not affect the rights or priorities of DIP Agent and DIP Lender pursuant to this Interim Order with respect to the DIP Collateral or any portion of the DIP Obligations which arises or is incurred or is advanced prior to such modifications, and this Interim Order shall otherwise remain in full force and effect to such extent.

(d) This Interim Order shall be binding upon the Debtors, all parties in interest in the Chapter 11 Cases and their respective successors and assigns, including any trustee or other fiduciary appointed in the Chapter 11 Cases or any subsequently converted bankruptcy case(s) of any Debtor. This Interim Order shall also inure to the benefit of the Debtors, DIP Agent, DIP Lender, and each of their respective successors and assigns.

5.7 Restrictions on Cash Collateral Use; Additional Financing; Plan Treatment.

(a) All post-petition advances and other financial accommodations under the DIP Term Sheet and the other DIP Documents are made in reliance on this Interim Order and there shall not at any time be entered in the Chapter 11 Cases, or in any Successor Case, any order (other than the Final Order) which authorizes the use of Cash Collateral, or the sale, lease, or other disposition of property of any Estate in which DIP Agent or DIP Lender have a lien or security interest, except as expressly permitted hereunder or in the DIP Documents, or authorizes under section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured by a lien or security interest which is equal or senior to a lien or security interest in property in which DIP Agent or DIP Lender hold a lien or security interest, or which is entitled to priority administrative claim status which is equal or superior to that granted to DIP Agent and DIP Lender herein; unless, in each instance (x) Agent shall have given its express prior written consent with

respect thereto, no such consent being implied from any other action, inaction or acquiescence by DIP Agent or DIP Lender, or (y) such other order requires Repayment in Full. The security interests and liens granted to or for the benefit of DIP Agent and DIP Lender hereunder and the rights of DIP Agent and DIP Lender pursuant to this Interim Order and the DIP Documents with respect to the DIP Obligations and the DIP Collateral are cumulative.

(b) All DIP Obligations and Prepetition Obligations shall receive treatment under the Plan as set forth in the RSA, Plan Term Sheet, and DIP Term Sheet.

5.8 No Owner/Operator Liability. In determining to make any loan under the DIP Documents (including the negotiation thereof) and authorizing the use of Cash Collateral, none of the DIP Secured Parties or the Prepetition Secured Parties shall be deemed to (i) be in control of the operations of the Debtors or to be acting as a “controlling person,” “responsible person,” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the Internal Revenue Code, the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute) or (ii) owe any fiduciary duty to any of the Debtors. Furthermore, nothing in this Interim Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Secured Parties or the Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

5.9 Marshalling; 552(b) Waiver. Subject to entry of the Final Order, (a) none of the DIP Secured Parties or the Prepetition Secured Parties shall be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral or the

Prepetition Collateral, as applicable, and all proceeds of DIP Collateral shall be received and applied in accordance with the DIP Documents and the Prepetition Credit Agreements as applicable, (b) the DIP Secured Parties and the Prepetition Secured Parties are and shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and (c) the “equities of the case” exception under section 552(b) shall not apply to any of the Prepetition Secured Parties, DIP Secured Parties, DIP Obligations, or Prepetition Obligations.

5.10 Right of Setoff. To the extent any funds were on deposit with Prepetition Agent as of the Petition Date, including, without limitation, all funds deposited in, or credited to, an account of any Debtor with Prepetition Agent or Prepetition Lender immediately prior to the filing of the Chapter 11 Cases (regardless of whether, as of the Petition Date, such funds had been collected or made available for withdrawal by any such Debtor), such funds (the “**Deposited Funds**”) are subject to rights of setoff. By virtue of such setoff rights, the Deposited Funds are subject to a lien in favor of Prepetition Agent and/or Prepetition Lender, as applicable, pursuant to §§ 506(a) and 553 of the Bankruptcy Code.

5.11 Right to Credit Bid.

(a) To the fullest extent permitted by section 363(k) of the Bankruptcy Code, in connection with any sale or other disposition of the DIP Collateral or Prepetition Collateral (as applicable) including any Sale: (a) DIP Agent (on behalf of DIP Lender) shall have the right to credit bid on a dollar-for-dollar basis, in accordance with the DIP Documents, up to the full amount of the DIP Obligations, (b) subject to the challenge rights set forth in Section 4.1 hereof, Prepetition Agent (on behalf of the Prepetition Lender) shall have the right to credit bid, in accordance with the Prepetition Loan Documents, up to the full amount of the Prepetition Secured Obligations, (c) each of the DIP Agent and Prepetition Agent shall have the absolute right (at the

direction of their respective secured parties) to assign, transfer, sell or otherwise dispose of its rights to credit bid in connection with the assignment, transfer, sale, or disposition of the corresponding DIP Obligations, except as may be set forth in the DIP Documents, and (d) each of the Debtors, the Prepetition Secured Parties, and DIP Secured Parties acknowledge and agree that they shall not object, or support any objection, to or limit, or support any limitation on, any other such DIP Secured Parties' or Prepetition Secured Parties' rights to credit bid, up to the full amount of their respective DIP Obligations and/or Prepetition Obligations,

5.12 Payment and Review of Lender Professional Fees and Expenses. Each Debtor shall pay all reasonable and documented professional fees and other expenses of the Prepetition Secured Parties and the DIP Secured Parties, whether incurred before or after the Petition Date; provided, that the Debtors shall pay all such reasonable and documented fees and expenses within ten (10) business days of delivery of a statement or invoice for such fees and expenses (it being understood that such statements or invoices may be in summary form and shall not be required to be maintained in accordance with the U.S. Trustee Guidelines, nor shall any such counsel or other professional be required to file any interim or final fee applications with the Court or otherwise seek the Court's approval of any such payments) to the Debtors, the U.S. Trustee and the Committee (if appointed), unless, within such seven (7) business day period, the Debtors or the Committee (if appointed) serve a written objection upon the requesting party, in which case, the Debtors shall immediately pay such amounts that are not the subject of any objection and pay the withheld amount as subsequently agreed by the parties or ordered by the Court to be paid.

5.13 Access to DIP Collateral. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of DIP Agent and DIP Lender contained

in this Interim Order, the DIP Documents, or otherwise available at law or in equity, and subject to the terms of the DIP Term Sheet, upon reasonable prior written notice to the landlord of any leased premises that an Event of Default has occurred and is continuing, DIP Agent may, subject to the applicable notice provisions, if any, in this Interim Order and any separate applicable agreement by and between such landlord and DIP Agent, enter upon any leased premises of the Debtors or any other party for the purpose of exercising any remedy with respect to DIP Collateral located thereon and shall be entitled to all of the Debtors' rights and privileges as lessee under such lease without interference from the landlords thereunder, provided that DIP Agent shall be obligated only to pay rent of the Debtors that first accrues after the written notice referenced above and that is payable during the period of such occupancy by DIP Agent, calculated on a daily per diem basis. Nothing herein shall require DIP Agent to assume any lease as a condition to the rights afforded in this paragraph. For the avoidance of doubt, subject to (and without waiver of) the rights of DIP Agent under applicable nonbankruptcy law, DIP Agent can only enter upon a leased premises after an Event of Default in accordance with (i) a separate agreement with the landlord at the applicable leased premises, or (ii) upon entry of an order of the Court obtained by motion of DIP Agent on such notice to the landlord as shall be required by the Court.

5.14 Indefeasible Payment. All payments made to or for the benefit of any of the DIP Secured Parties or Prepetition Secured Parties after the Petition Date shall be indefeasible and shall not be subject to disgorgement, counterclaim, set-off, subordination, recharacterization, defense, disallowance, recovery or avoidance by any party for any reason except as may occur pursuant to application of Section 4.1 of this Interim Order, Reservation of Third-Party Challenge Rights.

5.15 Term; Termination. Notwithstanding any provision of this Interim Order to the contrary, the term of the financing arrangements among the Debtors, DIP Agent and DIP

Lender authorized by this Interim Order may be terminated pursuant to the terms of the DIP Term Sheet.

5.16 Limited Effect. In the event of a conflict between the terms and provisions of any of the DIP Documents, the Motion, and this Interim Order, the terms and provisions of this Interim Order shall govern.

5.17 Objections Overruled. All objections to the entry of this Interim Order are (to the extent not withdrawn, waived, or settled) hereby overruled.

5.18 Retention of Jurisdiction. The Court retains jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Interim Order, the DIP Term Sheet, and the other DIP Documents.

Section 6. Final Hearing and Objection Deadline.

The Final Hearing on the Motion pursuant to Bankruptcy Rule 4001(c)(2) is scheduled for June 5, 2024 at 9:30 a.m. (Central Time) before the Court. The Debtors shall promptly mail copies of this Interim Order to the Notice Parties, and to any other party that has filed a request for notices with the Court and to any Committee (if appointed) and such Committee's counsel, if same shall have filed a request for notice. Such notice is deemed good and sufficient and that no further notice need be given. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon (i) proposed attorneys to the Debtors, (i) Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3900, Dallas, TX 75201, Attn: Matthew D. Struble, and 1114 Avenue of the Americas, 32nd Floor, New York, New York 10036, Attn: Lauren R. Kanzer; (ii) counsel to the DIP Secured Parties and Prepetition Secured Parties, Katten Muchin Rosenman LLP, 50 Rockefeller Plaza, New York, NY 10020, Attn: Cindi M Giglio and Lucy F. Kweskin; (iii) counsel to the Committee (if appointed); and (iv) the Office of the United States Trustee for the Northern District of Texas, 1100 Commerce

Street, Room 976, Dallas, Texas 75242, Attn: Meredyth A. Kippes, and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Texas, in each case, no later than 5:00 p.m. (Central Time) on May 31, 2024 (the “*Objection Deadline*”).

End of Order

Order submitted by:

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

EXHIBIT A

DIP Term Sheet

KIDKRAFT, INC.**Priming Superpriority Debtor-In-Possession Financing
Term Sheet****Dated as of April 25, 2024**

This Priming Superpriority Debtor-in-Possession Financing Term Sheet (including all schedules, annexes and exhibits hereto, this “**Term Sheet**”) describes the principal terms and conditions of a proposed DIP Facility to be provided by the DIP Lender to the Borrower in connection with cases (collectively, the “**Chapter 11 Cases**”) to be filed by the Debtors in the United States Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Court**”) pursuant to chapter 11 of title 11 of the United States Code (as amended, the “**Bankruptcy Code**”) on or around May 6, 2024 (the date of filing, the “**Petition Date**”) and proceedings to be commenced pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (Canada) (“**CCAA**” and the related recognition proceedings, the “**CCAA Recognition Proceedings**”) in the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”).

The parties contemplate the sale of the Debtors’ assets to Backyard Products, LLC or its designee (the “**Backyard Sale**”) pursuant to that certain Asset Purchase Agreement (the “**APA**”) dated as of the date hereof between KidKraft, Inc., and certain of its affiliates and Backyard Products, LLC (the “**Purchaser**”) and an orderly wind down pursuant to a chapter 11 plan (the “**Plan**”) to be consummated in the Chapter 11 Cases pursuant to that certain Restructuring Support Agreement to which this Term Sheet is attached (the “**RSA**”) and the Plan Term Sheet attached thereto (the “**Plan Term Sheet**”).

This Term Sheet is being provided on a confidential basis and it, along with its contents and existence, may not be distributed, disclosed or discussed with any other party. This Term Sheet is not an offer for the purchase, sale or subscription or invitation of any offer to buy, sell or to subscribe for any securities. The terms and conditions set forth in this Term Sheet do not constitute or create an agreement, obligation or commitment of any kind by or on behalf of any party, unless and until executed by each of the undersigned parties hereto.

BORROWER:	KidKraft, Inc. (“ KidKraft ” or “ Borrower ”)
GUARANTORS:	The affiliates of KidKraft listed on Schedule 1 hereto (such affiliates and KidKraft, Inc., each a “ Debtor ” and collectively, the “ Debtors ”), as may be modified with the consent of the DIP Agent and any additional guarantor.
DIP LENDER:	1903 Partners, LLC (the “ DIP Lender ”)
DIP AGENT:	GB Funding, LLC (the “ DIP Agent ”, and together with the DIP Lender, the “ DIP Secured Parties ”)
DIP COMMITMENT:	The DIP Lender agrees to make senior secured superpriority priming debtor-in-possession loans (each, a “ DIP Loan ” and

	<p>in the aggregate, the “DIP Loans”) to Borrower from time to time pursuant to a multi-draw debtor-in-possession term loan facility (the “DIP Facility”) in an aggregate amount (i) not to exceed at any time outstanding aggregate commitments of \$10.5 million (the “DIP Commitment”) consisting of a \$4.0 million DIP Commitment as of the Interim Closing Date (the “Interim Commitment”) and an incremental \$6.5 million DIP Commitment as of the Final Closing Date (the “Final Commitment”) <i>plus</i> (ii) the Roll-Up Amount.</p>
PURCHASE PRICE CALCULATION:	<p>Every Wednesday beginning the first full calendar week following the Petition Date, the Debtors shall deliver an updated calculation of the “Purchase Price at close” in accordance with Exhibit B of the APA as though the Backyard Sale was closing on such date (each such calculation, a “Purchase Price Calculation”) to the DIP Agent and the Purchaser. If the aggregate “Purchase Price at close” in any such Purchase Price Calculation is 20% or more below the Example Purchase Price Calculation set forth in the Exhibit B of the APA, it shall be deemed a “Negative Purchase Variance.”</p>
ROLL UP:	<p>Upon entry of the Interim Order, \$23.3 million of the Prepetition Obligations shall be “rolled up” and converted into DIP Loans on a dollar-for-dollar cashless basis (the “Roll-Up Amount”).</p>
CASH COLLATERAL:	<p>“Cash Collateral” consists of: (i) cash collateral (as such term is defined in section 363(a) of the Bankruptcy Code, including, without limitation, any accounts receivable and general intangible and any other cash or right that would be included in such definition of “cash collateral” within the meaning of section 363(a) of the Bankruptcy Code) including, without limitation, all cash or cash equivalents and other amounts, including the cash in any deposit or securities accounts, wherever located; (ii) any cash or cash equivalents received as proceeds of Prepetition Collateral or DIP Collateral; and (iii) all other cash or cash equivalents of the Debtors.</p> <p>Subject to the terms of the DIP Documents, the Prepetition Secured Parties (as defined below) shall consent to the Debtors’ use of Cash Collateral during the Chapter 11 Cases and CCAA Recognition Proceedings to fund (i) working capital, (ii) general corporate purposes, (iii) restructuring costs and expenses, and (iv) any other fees required under the DIP Documents and the other definitive documentation during the pendency of the Chapter 11 Cases and CCAA Recognition</p>

	<p>Proceedings, in each case, subject to the Approved Budget (as defined below), including the Permitted Variances.</p> <p>To the extent any amounts required to be funded under this Term Sheet, the DIP Documents, the RSA, the Plan, or the APA or any other document or order (including the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount, Post-Sale Reserve, and Foreign Sale Reserve) are not actually expended, such amounts shall be deemed Cash Collateral and distributed to the DIP Agent or Prepetition Agent, as applicable.</p>
<p>CLOSING DATES:</p>	<p>“Interim Closing Date” means the date on which the “Conditions Precedent to Each Interim DIP Loan” (including, without limitation, entry of the Interim Order) are satisfied or waived in accordance with this Term Sheet.</p> <p>“Final Closing Date” means the date on which the “Conditions Precedent to Each Final DIP Loan” as set forth below (including, without limitation, entry of the Final Order) shall have been satisfied or waived in accordance with this Term Sheet.</p>
<p>DIP LOAN DOCUMENTATION:</p>	<p>At the option of the DIP Lender in its sole discretion, Debtors shall execute definitive financing documentation with respect to the DIP Loans, including, without limitation, all guaranties thereof, satisfactory in form and substance to each of the DIP Lender and Debtors (and together with this Term Sheet and other documents governing the DIP Facility, the “DIP Documents”). The provisions of the DIP Documents shall, upon execution, supersede the provisions of this Term Sheet. The provisions of the DIP Documents shall be substantially the same as the Prepetition Loan Documents with such changes as are necessary to reflect the terms of this Term Sheet, the DIP Orders and the Canadian DIP Recognition Orders (once entered).</p> <p>“Canadian DIP Recognition Orders” shall mean, as applicable, an order (after hearing on notice to all parties having or asserting a lien on all or any portion of the DIP Collateral situated in Canada), recognizing and giving effect in Canada to: (i) the Interim Order (the “Interim DIP Recognition Order,” and together with the Interim Order, the “Interim Orders”), and (ii) the Final Order (the “Final DIP Recognition Order” and together with the Final Order, the “Final Orders”).</p>

	<p>In addition to the provisions set forth herein, the DIP Orders and the Canadian DIP Recognition Orders shall contain additional customary protections for the DIP Lenders. Each of the parties’ rights and obligations hereunder shall be subject to entry of the DIP Orders and the Canadian DIP Recognition Orders.</p>
<p>ACKNOWLEDGMENT; RATIFICATION:</p>	<p>Each Debtor hereby acknowledges, confirms, and agrees that:</p> <p>(i) as of the Petition Date, the Debtors are jointly and severally indebted under and in connection with that certain <i>Amended and Restated First Lien Credit Agreement</i> dated as of April 3, 2020, among KidKraft and KidKraft Netherlands B.V. as borrowers, KidKraft Intermediate Holdings, LLC (“Holdings”), the subsidiaries of Holdings that are guarantors thereto (collectively, with Holdings, the “Guarantors”) GB Funding, LLC in its capacity as administrative agent and collateral agent (the “Prepetition Agent”), and 1903 Partners, LLC in its capacity as Lender (the “Prepetition Secured Lender”, and together with the Prepetition Agent, the “Prepetition Secured Parties”) (as may be amended, supplemented or otherwise modified from time to time, the “Prepetition Credit Agreement”, and together with all related security agreements, collateral agreements, pledge agreements, control agreements, guarantees, the “Prepetition Loan Documents”) in the aggregate principal amount of not less than \$144.9 million (together with any other amounts outstanding under the Prepetition Credit Agreement, including interest costs, expenses, indemnification obligations, and fees (including attorneys’ fees and legal expenses) (collectively, the “Prepetition Obligations”));</p> <p>(ii) the Prepetition Obligations constitute the legal, valid and binding obligations of each Debtor enforceable against it in accordance with the terms thereof, and each Debtor has no valid defense, offset or counterclaim to the enforcement of such obligations;</p> <p>(iii) the Prepetition Obligations are secured by valid, enforceable and perfected (except, in the case of perfection, for (A) Excluded Accounts and (B) commercial tort claims, letter of credit rights, certificate of title vehicles, and other assets, in each case of this clause (B), to the extent expressly excluded from the requirement to perfect liens thereon pursuant to the Prepetition Loan Documents) first priority and senior security interests in and liens (subject in priority only to those “Liens” permitted under Section 7.01 of the</p>

	<p>Prepetition Credit Agreement (the “Prepetition Permitted Liens”) and the DIP Liens) upon all of the Debtors’ assets and property other than Excluded Assets, Excluded Receivables and Consumer Goods (as each such term is defined in the Prepetition Credit Agreement) (collectively, the “Prepetition Collateral”), including Cash Collateral;</p> <p>(iv) each of the Prepetition Loan Documents to which it is a party was duly executed and delivered by such Debtor, and each is in full force and effect as of the date hereof;</p> <p>(v) the Prepetition Secured Parties are and shall be entitled to all of the rights, remedies and benefits provided for in the Prepetition Loan Documents and the DIP Orders; and</p> <p>(vi) all of the terms and conditions of the Prepetition Loan Documents, as amended and supplemented pursuant hereto and pursuant to the DIP Orders and the Canadian DIP Recognition Orders, are ratified, restated, assumed, adopted and affirmed, and each Debtor agrees (a) to be fully bound, as debtor and debtor-in-possession, by the terms of the Prepetition Loan Documents to which such Debtor is a party, (b) to pay all of the Prepetition Obligations in accordance with the terms of such Prepetition Loan Documents and in accordance with the DIP Orders, and (c) each of the Prepetition Loan Documents are hereby incorporated herein by reference and hereby are and shall be deemed adopted and assumed in full by each Debtor, each as Debtor and debtor-in-possession, and considered as agreements between such Debtor, on the one hand, and the Prepetition Secured Parties on the other hand.</p> <p>The Interim Order and Final Order shall include typical acknowledgments regarding the validity and priority of the Prepetition Secured Parties and Prepetition Obligations.</p>
<p>CHALLENGE PERIOD:</p>	<p>The “ACKNOWLEDGMENT; RATIFICATION” section of this Term Sheet and portion of the “RELEASES” sections of this Term Sheet pertaining to the Prepetition Obligations, Prepetition Loan Documents, and Prepetition Secured Parties shall be subject to a typical “challenge period” (the “Challenge Period”) to be set forth in the Interim Order and Final Order, which Challenge Period shall expire prior to the date that the Plan is confirmed by the Bankruptcy Court.</p>

<p>CARVE-OUT:</p>	<p>“Carve-Out” shall mean the sum of:</p> <p>(i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code <i>plus</i> interest at the statutory rate;</p> <p>(ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code;</p> <p>(iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise all unpaid fees, costs, disbursements and expenses (the “Allowed Professional Fees”) incurred or earned by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Committee (if any) pursuant to sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals,” and, together with the Debtor Professionals, the “Professional Persons”) at any time on or before the first business day following delivery by the DIP Lender to the Debtors of a Carve-Out Trigger Notice (as defined in the Interim Order and Final Order), but shall not include any restructuring, sale, transaction or other “success” fee except for such fee earned by Robert W. Baird & Co. Inc. in its capacity as investment banker to the Debtors during such time;</p> <p>(a) Commencing on the Friday of the first full calendar week following the Petition Date and on a weekly basis thereafter, the DIP Secured Parties shall loan and the Debtors shall fund, using borrowings from the DIP Facility or cash on hand, a segregated account (the “Funded Reserve Account”) held by the Debtors in trust for the benefit of the Debtor Professionals in an amount equal to the amount of applicable Professional Fees set forth in the Approved Budget, subject to the objection procedures herein in the “Debtor Professional Budget and Reporting” section.</p> <p>(iv) Allowed Professional Fees of the Professional Persons in an aggregate amount not to exceed \$150,000 accrued after the first business day following delivery by the DIP Agent of a Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, final order, or otherwise; and</p> <p>(v) an amount up to the amount secured by and necessary to fund the Administration Charge (as defined below) for the</p>
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	<p>beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings.</p>
<p>USE OF PROCEEDS:</p>	<p>Proceeds of the DIP Loans (and Cash Collateral) will be used solely in accordance with the Approved Budget (as defined below) for (a) working capital and general corporate purposes of the Debtors, (b) restructuring costs and expenses, (c) costs and expenses related to the DIP Facility, (d) payment of interest on the DIP Loans, and (e) other costs to ensure consummation of the Plan.</p> <p>Neither proceeds of the DIP Loans nor any Cash Collateral shall be used (i) to permit the Borrower, the Guarantors or any other party-in-interest or any of their representatives to challenge or otherwise contest or institute any proceeding to determine (x) the validity, perfection or priority of security interests in favor of any of the DIP Secured Parties or the Prepetition Secured Parties, or (y) the enforceability of the obligations of the Debtors under the DIP Documents or the Prepetition Loan Documents, (ii) to investigate, commence, prosecute or defend any claim, motion, proceeding or cause of action against any of the DIP Secured Parties or the Prepetition Secured Parties, each in such capacity, and their respective agents, attorneys, advisors or representatives.</p>
<p>APPROVED BUDGET; APPROVED CASH FLOW PROJECTION; AND VARIANCE REPORTS:</p>	<p>By no later than two (2) Business Days before the Petition Date, Debtors shall deliver to the DIP Lender a weekly budget for the 9-week period commencing on the Petition Date, and such weekly budget shall be approved by the DIP Lender and the Purchaser (such consent, which shall not be unreasonably withheld, conditioned, or delayed, other than line items of the budget pertaining to the Reimbursement Amounts (as defined in the APA) or which impact the Purchase Price (as defined in the APA), for which such consent shall be in the discretion of the Purchaser) and shall set forth, among other things, all projected cash receipts, sales, and cash disbursements, a copy of which is attached as <u>Exhibit A</u> hereto (the “Approved Budget”).</p> <p>Commencing on the Monday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time) and continuing on the two (2)-week anniversary thereafter (or such other time as the Debtors may elect with the consent of the DIP Lender), the weekly budget shall be updated, and if such updated budget is in form and substance satisfactory to the DIP Lender and the Purchaser (such consent, which shall not be unreasonably withheld, conditioned, or delayed, other</p>

	<p>than line items of the budget pertaining to the Reimbursement Amounts or which impact the Purchase Price, for which such consent shall be in the discretion of the Purchaser), it shall become the “Approved Budget” for purposes of this Term Sheet and the DIP Orders. Commencing on the Wednesday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time), and on a weekly basis thereafter (or at such other times as the Debtors may elect with the consent of the DIP Lender) the Debtors shall deliver to the DIP Lender a variance report in form and substance reasonably acceptable to the DIP Lender (an “Approved Variance Report”) showing comparisons of actual results for each line item against such line item in the Approved Budget. Thereafter, Debtors shall deliver to the DIP Lender, an Approved Variance Report on a weekly basis for (a) the preceding week, and (b) the trailing four (4) week period (or, if fewer than four (4) weeks have lapsed since the Petition Date, then for the trailing one, two or three week period, as applicable).</p> <p>Each Approved Variance Report shall indicate whether there are any adverse variances that exceed any of the Permitted Variances.</p> <p>“Permitted Variances” shall mean variances: (a) up to 15% of the aggregate for all cash disbursements (other than fees and expenses of counsel to the DIP Secured Parties and Professional Persons) line-items in the Approved Budget, (b) less than 20% of the aggregate for all cash receipts in the Approved Budget, and (c) up to 15% of all fees and expenses incurred on a per-Professional Person basis (the “Professional Fee Variance”) in each case calculated weekly on a rolling four (4) week basis commencing as of the Petition Date, with the first such testing to begin three (3) weeks from the Petition Date, except that the Professional Fee Variance shall be calculated weekly and not on a rolling four (4) week basis. Any amendments, supplements or modifications to the Approved Budget or an Approved Variance Report shall be subject to the prior written approval of the DIP Lender in its sole discretion prior to the implementation thereof.</p> <p>Other than as set forth below in the “Debtor Professional Budgeting and Reporting” section of this term sheet, if any Professional Person exceeds the Professional Fee Variance, such Professional Person will, if requested by the DIP Lender within two (2) Business Days of receipt of such adverse variance report, make a representative available to meet and</p>
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	<p>confer with the DIP Lender as soon as practicable and no later than two (2) Business Days after delivery of such Approved Variance Report, to discuss a good faith modification to the Approved Budget (the “Meet and Confer”). If the DIP Lender and such Professional Person cannot mutually agree on a modification following the Meet and Confer, the DIP Lender may, in its sole discretion, declare an Event of Default, consistent with the provisions herein.</p> <p>To the extent the amount of actual fees and expenses of any Professional Person is less than the amount set forth in the Approved Budget on a weekly basis, such amount for such Professional Person may be rolled forward to increase the amount available to the applicable Professional Person in any subsequent week.</p>
<p>DEBTOR PROFESSIONAL BUDGETING AND REPORTING</p>	<p>Notwithstanding anything to the contrary herein, the following requirements shall apply to each Debtor Professional.</p> <p>(i) Commencing on the Monday of the first full calendar week after the Petition Date and continuing weekly thereafter, each Debtor Professional shall submit a report of the prior week’s accrued fees and expenses to the DIP Agent (the “Debtor Professional Report”).</p> <p>(ii) The DIP Agent shall review the Debtor Professional Reports, may test the accrued fees and expenses in the Debtor Professional Report against the Professional Fee Variance, and must submit a written objection (if any) to the applicable Debtor Professional no later than two (2) Business Days following delivery of the Debtor Professional Report (the “Review Period”).</p> <p>(a) If the DIP Agent does not submit a written objection at the close of the Review Period, the Debtors shall fund the full amount of accrued fees and expenses in such Debtor Professional Report into the Funded Reserve Account.</p> <p>(b) If the DIP Agent submits a written objection to the Debtor Professional Report prior to the end of the Review Period, the DIP Agent and the applicable Debtor Professional shall conduct a Meet and Confer within two (2) Business Days.</p> <p>(c) At the conclusion of the Meet and Confer, if the DIP Agent elects to declare an Event of Default, the Debtors</p>

	<p>shall only fund an amount not to exceed 150% of such Debtor Professional’s budgeted amount as set forth in the Approved Budget for the period covered by such Debtor Professional Report. For the avoidance of doubt, any Event of Default or other action taken by the DIP Agent shall not impact any amounts previously funded in the Funded Reserve Account in compliance with the procedures herein.</p> <p>For the avoidance of doubt, the DIP Agent’s request for a Meet and Confer shall not (in and of itself absent an Event of Default declaration) impact any terms of the DIP Documentation, including any subsequent reporting and testing as set forth herein, nor the DIP Secured Parties’ obligations to loan and the Debtors’ obligations to fund the Funded Reserve Account in accordance with the DIP Term Sheet after a Meet and Confer is requested.</p>
<p>ADMINISTRATIVE EXPENSE CLAIM, PRIORITY TAX CLAIM, AND OTHER PRIORITY CLAIM BACKSTOP AMOUNT:</p>	<p>The amount, to be agreed upon by the Debtors and both the DIP Lender and Backyard Products, LLC, each in its sole discretion, and funded by cash on hand of the Debtors and the proceeds of the DIP Facility prior to the Confirmation Date, sufficient to satisfy the agreed upon estimated amount of the Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims excluding Allowed Professional Fee Claims; <i>provided, that</i> in no event will the DIP Lender’s obligation to provide such funding exceed the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount (as defined and set forth in the Plan).</p>
<p>FIRST PRIORITY SECURITY INTEREST:</p>	<p>All DIP Loans and other liabilities and obligations of Debtors to the DIP Secured Parties under or in connection with this Term Sheet, the DIP Documents, and the DIP Orders (collectively, the “DIP Obligations”) shall be:</p> <p>(i) pursuant to section 364(c)(1) of the Bankruptcy Code, constitute an allowed superpriority administrative expense claim (the “DIP Superpriority Claim”) in the Chapter 11 Cases of the Debtors with priority over any and all administrative expenses, whether heretofore or hereafter incurred, of the kind specified in sections 503(b) or 507(a) of the Bankruptcy Code but shall be subject to the Carve-Out and, shall be payable from the proceeds of DIP Collateral;</p> <p>(ii) pursuant to sections 364(c)(2), secured by a perfected first priority lien on the DIP Collateral, to the extent that such DIP</p>

	<p>Collateral is not subject to valid, perfected, and non-avoidable liens as of the Petition Date (but in all cases subject to the Carve-Out);</p> <p>(iii) pursuant to section 364(c)(3), secured by a perfected junior lien on DIP Collateral (as defined below), to the extent such DIP Collateral is subject to a Permitted Lien;</p> <p>(iv) pursuant to section 364(d) of the Bankruptcy Code, secured by the DIP Liens, which shall constitute a perfected, senior secured superpriority priming security interest and lien on the DIP Collateral (but in all cases subject to the Carve-Out); and</p> <p>(v) pursuant to the Canadian DIP Recognition Orders, secured by a super-priority CCAA Court-ordered charge upon DIP Collateral which is property of a Debtor formed under the laws of Canada (the “Canadian Debtors”) or DIP Collateral situated in Canada (all such collateral, the “Canadian Collateral”).</p> <p>For clarity, all existing liens, including the liens granted in connection with the Prepetition Loan Documents shall be primed and made subject to and subordinate to the DIP Liens.</p> <p>The DIP Liens shall not be <i>pari passu</i> with or subordinated to any other liens or security interests (whether currently existing or hereafter created), except (i) the Carve-Out, (ii) such liens or interests expressly agreed upon in writing by the DIP Agent in its sole discretion, (iii) with respect to the Canadian Collateral, (A) the super-priority administration charge to be established by the CCAA Court on the Canadian Collateral in the Supplemental Order (Foreign Main Proceeding) as security for the professional fees and disbursements of Canadian counsel to the Debtors, the information officer appointed by the CCAA Court in the CCAA Recognition Proceedings (the “Information Officer”) and legal counsel to the Information Officer incurred in respect of the CCAA Recognition Proceedings in an amount not to exceed C\$750,000 (the “Administration Charge”), and (B) the super-priority charge to be established by the CCAA Court on the Canadian Collateral in the Supplemental Order (Foreign Main Proceeding), securing an indemnity by KidKraft and the Canadian Debtors in favor of their directors and officers against certain Canadian obligations or liabilities that they may incur as directors and officers of KidKraft and the Canadian Debtors on or after the commencement of the</p>
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	<p>CCAA Recognition Proceedings in an amount not to exceed C\$100,000 (the “Directors’ Charge, and together with the Administration Charge, the “Canadian Priority Charges”) or (iv) such priming liens or interests imposed by applicable non-bankruptcy law and disclosed to the DIP Agent prior to the entry of the Interim Order, are in existence as of the Petition Date, and otherwise unavoidable (collectively, the “Permitted Liens”). For the avoidance of doubt, the Permitted Liens shall not include any liens which are junior in priority to the liens held by the Prepetition Secured Parties.</p>
<p>GRANT OF SECURITY INTEREST:</p>	<p>As collateral security for the prompt performance, observance, and payment in full of the DIP Obligations, each Debtor, as debtor and debtor-in-possession, hereby grants, pledges, and assigns to the DIP Agent, for the benefit of the DIP Lender, continuing security interests in and liens upon, and rights of setoff against, all of the DIP Collateral (the “DIP Liens”).</p> <p>As collateral security for the prompt performance, observance, and payment in full of the Adequate Protection Superpriority Claim (as defined below), each Debtor, as debtor and debtor-in-possession, hereby grants, pledges, and assigns to Prepetition Agent, for the benefit of the Prepetition Secured Lender, continuing security interests in and liens upon, and rights of setoff against, all of the DIP Collateral (the “Replacement Lien”).</p>
<p>ADEQUATE PROTECTION:</p>	<p>As adequate protection for any diminution of the Prepetition Secured Parties’ interest in the Prepetition Collateral resulting from the use of Cash Collateral, the subordination of their existing liens to the DIP Liens, and the imposition of the Carve-Out, the Prepetition Secured Parties shall receive:</p> <p>(i) pursuant to sections 361, 363(e), and 364(d)(l) of the Bankruptcy Code, the Replacement Lien, which shall be subject and subordinated only to the Carve-Out, the DIP Liens, and the Permitted Liens;</p> <p>(ii) an administrative expense claim, junior and subordinate only to the Carve-Out and the DIP Superpriority Claim with priority over any and all other administrative expenses (the “Adequate Protection Superpriority Claim”); and</p> <p>(iii) payment of all reasonable, documented out-of-pocket costs and expenses of the Prepetition Secured Parties relating to the DIP Facility, the Debtors’ Chapter 11 Cases, and the CCAA Recognition Proceedings (including, without</p>

	<p>limitation, prepetition and post-petition reasonable and documented fees and disbursements of counsel and advisors).</p> <p>Such adequate protection shall in all cases be subject to the Carve-Out and shall be entitled to the full protections of Section 507(b) of the Bankruptcy Code and shall be payable from Avoidance Actions upon entry of the Interim Order.</p> <p>The Prepetition Secured Parties reserve all rights with respect to additional adequate protection, including adequate protection payments substantially equal to interest on the Prepetition Obligations.</p>
<p>DIP COLLATERAL:</p>	<p>“DIP Collateral” means, collectively, all assets and property (whether tangible, intangible, real, personal or mixed), wherever located, whether now owned or owing to, or hereafter acquired by, or arising in favor of each Debtor and its respective chapter 11 estate, and any and all proceeds therefrom, including, without limiting the generality of the foregoing, all cash, Cash Collateral, accounts, accounts receivable, inventory, property, plant and equipment, real estate, leaseholds, equity interests, intellectual property, and upon entry of the Final Order, avoidance actions under chapter 5 of the Bankruptcy Code and proceeds thereof (collectively, the “Avoidance Actions”).</p> <p>For the avoidance of doubt, any amounts paid by Purchaser to the Debtors in the event of a breach or termination of the APA shall be Cash Collateral.</p> <p>The DIP Collateral shall also include any rents, issues, products, proceeds, and profits generated by any item of DIP Collateral, without the necessity of any further action of any kind or nature by the DIP Agent in order to claim or perfect such rents, issues, products, or proceeds.</p> <p>The Debtors shall take all action that may be reasonably necessary or desirable or that the DIP Agent may reasonably request, to at all times maintain the validity, perfection, enforceability and priority of the security interest and liens of the DIP Agent in the DIP Collateral, or to enable the DIP Agent to protect, exercise or enforce its rights hereunder, under the DIP Orders, the Canadian DIP Recognition Orders and in the DIP Collateral.</p>
<p>DIP FEES:</p>	<p>The Debtors shall pay the (A) DIP Lender (i) an origination fee of 2.00% of the DIP Commitment, which shall be fully</p>

	earned and non-refundable on the Interim Closing Date, and shall be paid from the proceeds of the initial funding of DIP Loans, and (ii) an exit fee of 2.00% of the DIP Commitment, which shall be fully earned and non-refundable upon consummation of the Plan and (B) the DIP Agent, a weekly administrative fee of \$7,500.
INTEREST RATE:	The interest rate on the DIP Loans shall be a rate per annum equal to Adjusted Term SOFR for an Interest Period (as such terms are defined in the Prepetition Credit Agreement) of one month plus 8.50%. Interest shall be paid at the end of each Interest Period in cash, using Cash Collateral or proceeds of the DIP Loans. On the last day of each Interest Period the interest rate on the outstanding DIP Loans will be automatically deemed continued at Adjusted Term SOFR for an Interest Period of one month determined as of such date. Interest shall be paid monthly on the DIP Loans in cash, using Cash Collateral or proceeds of the DIP Loans.
DEFAULT RATE:	At all times following the occurrence and during the continuance of an Event of Default, principal, interest and other amounts due on the DIP Loans shall bear interest at a rate equal to the “Interest Rate” section above <i>plus</i> 3.00%.
MATURITY DATE:	The DIP Loans (together with all other DIP Obligations) shall mature and be due and payable on the earliest to occur of the following (such date, the “ Maturity Date ”): (i) the date that is sixty (60) days after the Petition Date (the “ Outside Date ”), which may be extended in the sole discretion of the DIP Lender; (ii) the date which is thirty (30) days following the entry of the Interim Order if the Bankruptcy Court has not entered the Final Order on or prior to such date; (iii) the date of the Debtors’ receipt of notice of the acceleration of any of the DIP Loans and the termination of the commitments to make the DIP Loans resulting from the occurrence of an Event of Default (including, without limitation, the failure to meet any Chapter 11 Milestone set forth in the RSA (collectively, the “ Chapter 11 Milestones ”)); (iv) the effective date of the Plan;

	<p>(v) a sale of all or substantially all of the Debtors’ assets is consummated under Section 363 of the Bankruptcy Code (which for the avoidance of doubt shall include the Backyard Sale after the occurrence of the Sale Toggle (as defined in the Plan Term Sheet)); and</p> <p>(vi) the filing of a motion by the Debtors seeking dismissal or termination of any or all of the Chapter 11 Cases or the CCAA Recognition Proceedings, the dismissal or termination of any or all of the Chapter 11 Cases or the CCAA Recognition Proceedings, the filing of a motion by the Debtors seeking to convert any or all of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, the conversion of any or all of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code or entry of an order appointing a trustee under chapter 11 of the Bankruptcy Code, a responsible officer or examiner with enlarged powers relating to the operation of the Debtors’ business (powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section 1106 of the Bankruptcy Code, the making of an assignment in bankruptcy by or entry by any Canadian court of a bankruptcy order in respect of any of the Debtors under the <i>Bankruptcy and Insolvency Act</i> (Canada) (“BIA”), or the entry of an order of any Canadian court appointing a receiver under the BIA over any DIP Collateral, in each case without the prior written consent of the DIP Agent.</p>
<p>OPTIONAL PREPAYMENTS:</p>	<p>The Debtors may prepay the DIP Loans in whole or in part at any time without premium or penalty. All optional prepayments shall be applied to the DIP Loans in accordance with the Prepayment Waterfall set forth below. Any amounts so prepaid may not be reborrowed.</p>
<p>MANDATORY PREPAYMENTS; APPLICATION OF PREPAYMENTS:</p>	<p>The Debtors shall pay or prepay the DIP Loans and all other DIP Obligations (together with a cash reserve established for the benefit of the DIP Agent to cover asserted contingent and indemnity obligations) in accordance with the Prepayment Waterfall, in each case after funding the Carve-Out, reserving proceeds sufficient to pay accrued and unpaid expenses to the extent set forth in the Approved Budget, and reserving for amount secured by and necessary to fund the Canadian Priority Charges (without duplication), upon receipt of any of the following (each, a “Mandatory Prepayment Event”):</p> <p>(i) net proceeds of any sale or disposition of all or substantially all of Debtors’ assets pursuant to section 363 of</p>

	<p>the Bankruptcy Code simultaneous with the consummation thereof, other than the Backyard Sale.</p> <p>(ii) net proceeds of any other sale or other disposition by any Debtor of any assets, in a single transaction or series of related transactions, having a value in excess of \$10,000 (except for the sale of goods or services in the ordinary course of business, sales contemplated by the Approved Budget, and certain other sales to be agreed on); and</p> <p>(iii) 100% of the net proceeds of extraordinary receipts (including tax refunds, indemnity payments, pension reversions, acquisition purchase price adjustments and insurance proceeds not included as proceeds of asset dispositions) by any Debtor, excluding any tax refunds contemplated to be received by any of the Debtors as set forth in the Approved Budget.</p> <p>Any amounts so paid or prepaid may not be reborrowed. No reinvestment of the proceeds of any extraordinary receipts, asset sales or other proceeds described above shall be permitted without the prior written consent of the DIP Lender.</p> <p>All payments or prepayments and proceeds of DIP Collateral received by the Debtors outside the ordinary course of business (other than the Backyard Sale) will be applied in the following order of priority (the “Prepayment Waterfall” (unless otherwise determined by the DIP Lender in its sole discretion)), in each case after funding the Carve-Out, reserving proceeds sufficient to pay accrued and unpaid expenses to the extent set forth in the Approved Budget, and reserving for amount secured by and necessary to fund the Canadian Priority Charges (without duplication):</p> <p>(i) <i>first</i>, to pay all reasonable documented out-of-pocket expenses of the DIP Secured Parties (including, without limitation, reasonable and documented out-of-pocket fees and expenses of counsel and external advisors);</p> <p>(ii) <i>second</i>, to pay an amount equal to all accrued and unpaid interest (including, without limitation, any interest that accrued and was “paid in kind”) owing to the DIP Secured Parties;</p>
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	<p>(iii) <i>third</i>, to repay any principal amounts outstanding in respect of the DIP Loans (including any amounts, other interest, that have been added to the principal balance); and</p> <p>(iv) <i>fourth</i>, all other amounts owing to the DIP Secured Parties.</p> <p>Proceeds from the Backyard Sale shall be distributed in accordance with the Plan.</p>
<p>INDEFEASIBLE PAYMENT:</p>	<p>All payments made to or for the benefit of any of the DIP Secured Parties or Prepetition Secured Parties after the Petition Date shall be indefeasible and shall not be subject to disgorgement, counterclaim, set-off, subordination, recharacterization, defense, disallowance, recovery or avoidance by any party for any reason.</p>
<p>CONDITIONS PRECEDENT TO EACH INTERIM DIP LOAN:</p>	<p>The obligations of the DIP Lender to make any Interim DIP Loans will be subject to satisfaction, or written waiver, by the DIP Lender in its sole and absolute discretion, of each of the following conditions precedent in connection with each draw request:</p> <p>(i) DIP Agent shall have received a request in writing in form approved by DIP Agent, in each case signed by Borrower, not later than 5:00 p.m. New York time (or such later time as DIP Agent may consent to in its discretion) three (3) business days prior to the date of the proposed borrowing of such Interim DIP Loan;</p> <p>(ii) Debtors shall have timely delivered to the DIP Lender the Approved Budget or any update thereto required to be delivered in accordance with this Term Sheet;</p> <p>(iii) Debtors shall have delivered to the DIP Agent a Closing Certificate, duly executed by the chief executive officer, president, or chief financial officer of the Borrower and appropriately completed, by which such officer shall certify to the DIP Agent all of the conditions precedent to the Interim DIP Loans have been satisfied (at any time delivered, a “Closing Certificate”);</p> <p>(iv) the Debtor shall have delivered all Purchase Price Calculations as required hereunder, and there shall have been no Negative Purchase Variances;</p>

	<p>(v) Debtors shall be in compliance with and satisfied the applicable Chapter 11 Milestones;</p> <p>(vi) the interim order has been entered by the Bankruptcy Court (after a hearing on notice to all parties having or asserting a lien on all or any portion of the DIP Collateral) and shall not have been reversed, modified, amended, stayed or vacated, or in the case of any modification or amendment, in a manner without the consent of the DIP Lender (the “Interim Order”), and the Debtors shall be in compliance in all respects with the Interim Order;</p> <p>(vii) the DIP Lender shall be satisfied that the DIP Liens have been properly perfected and shall constitute first-priority liens (subject only to Permitted Liens);</p> <p>(viii) all reasonable, documented fees and out-of-pocket expenses of the DIP Secured Parties relating to the DIP Facility (including, without limitation, the reasonable, documented fees and out-of-pocket expenses of their counsel and external advisors) shall have been paid in full to the extent invoiced at least two (2) business days prior;</p> <p>(ix) Debtors shall have insurance (including, without limitation, commercial general liability and property insurance) with respect to the DIP Collateral in such amounts and scope as is customary for companies similarly-situated to the Debtors and otherwise reasonably acceptable to the DIP Agent, and the DIP Agent shall have received additional insured and loss payee endorsements, as applicable, with respect thereto, in form and substance reasonably acceptable to the DIP Agent;</p> <p>(x) the DIP Agent shall have received the results of a recent lien, tax, and judgment search in each relevant jurisdiction with respect to Debtors, and such search shall reveal no liens on any of the assets of Debtors other than Permitted Liens and Permitted Prepetition Liens;</p> <p>(xi) no Event of Default shall have occurred and be continuing on the Interim Closing Date, or after giving effect to the Interim DIP Loan;</p> <p>(xii) all representations and warranties of the Debtors hereunder shall be true and correct in all material respects;</p>
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	<p>(xiii) subject to Bankruptcy Court approval, (i) each Debtor shall have the corporate power and authority to make, deliver and perform its obligations under this Term Sheet and the Interim Order, and (ii) no consent or authorization of, or filing with, any person (including, without limitation, any governmental authority) shall be required in connection with the execution, delivery or performance by each Debtor, or for the validity or enforceability in accordance with its terms against such Debtor, of this Term Sheet and the Interim Order, except for consents, authorizations and filings which shall have been obtained or made and are in full force and effect, relating to the CCAA Recognition Proceedings, or, the failure to obtain or perform, could not reasonably be expected to cause a Material Adverse Change;</p> <p>(xiv) no Material Adverse Change shall have occurred;</p> <p>(xv) each of the non-Debtor borrower and the non-Debtor guarantors under the Prepetition Loan Documents shall have executed a reaffirmation and ratification agreement ratifying and confirming its obligations under each of the Prepetition Loan Documents to which it is a party and each grant of a security interest contained therein, which agreement shall be in form and substance acceptable to the Prepetition Secured Parties;</p> <p>(xvi) DIP Agent shall have received, such certificates of good standing (to the extent such concept exists) from the applicable secretary of state (or equivalent) of the state (or other jurisdiction) of organization of each Debtor, certificates of resolutions or other corporate or limited liability company action, incumbency certificates and/or other certificates of responsible officers of each Debtor as the DIP Agent may reasonably require evidencing the identity, authority and capacity of each responsible officer thereof authorized to act as a responsible officer in connection with this DIP Term Sheet and the other DIP Documents to which such Debtor is a party or is to be a party on the Interim Closing Date and certifying the organization documents of each Debtor; and</p> <p>(xvii) the DIP Secured Parties shall have received such other information and/or deliverables as they may reasonably require or request consistent with the Prepetition Loan Documents.</p> <p>“Material Adverse Change” means a material adverse effect on and/or material adverse developments arising after the</p>
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	<p>Petition Date with respect to (i) the business operations, properties, assets, or financial conditions of the Debtors and their subsidiaries taken as a whole; (ii) the validity, perfection or priority of the DIP Liens granted by the Borrower and the Guarantors in favor of the DIP Secured Parties, (iii) the rights, remedies and benefits available to, or conferred upon, the DIP Secured Parties, taken as a whole; <i>provided that</i> the filing and administration of the Chapter 11 Cases and the CCAA Recognition Proceedings and related events shall not constitute a Material Adverse Change, or (iv) the Backyard Sale; <i>provided that</i> the filing and administration of the Chapter 11 Cases and the CCAA Recognition Proceedings and related events shall not constitute a Material Adverse Change.</p>
<p>CONDITIONS PRECEDENT TO EACH FINAL DIP LOAN:</p>	<p>The obligations of the DIP Lender to make any Final DIP Loans shall be subject to satisfaction or waiver of each of the following conditions:</p> <ul style="list-style-type: none"> (i) all representations and warranties of the Debtors hereunder being true and correct in all material respects; (ii) no Event of Default shall exist or would immediately result from such proposed Final DIP Loan or from the application of the proceeds therefrom; (iii) all reasonable, documented fees and out-of-pocket expenses, including reasonable, documented and out-of-pocket attorney’s fees of the DIP Secured Parties, shall have been paid in full; (iv) the applicable Chapter 11 Milestones shall have been satisfied; (v) a final order approving the DIP Facility shall have been entered, which final order shall not have been reversed, modified, amended, stayed or vacated or in the case of any modification or amendment, in a manner without the consent of the DIP Lender (the “Final Order,” and together with the Interim Order, the “DIP Orders”) and the Debtors shall be in compliance in all respects with the Final Order; (vi) no Material Adverse Change shall have occurred; (vii) the Debtors shall have delivered to the DIP Agent a Closing Certificate certifying all of the conditions precedent to such Final DIP Loan have been satisfied;

	<p>(viii) DIP Agent shall have received a request in writing in form approved by DIP Agent, in each case signed by Borrower, not later than 5:00 p.m. New York time (or such later time as DIP Agent may consent to in its discretion) three (3) business days prior to the date of the proposed borrowing of such Final DIP Loan;</p> <p>(ix) DIP Agent shall have received with respect to the week in which such Final DIP Loan is to be made, an Approved Budget for such week, including an Approved Variance Report;</p> <p>(x) the Debtor shall have delivered all Purchase Price Calculations as required hereunder, and there shall have been no Negative Purchase Variances; and</p> <p>(xi) the DIP Secured Parties shall have received such other information and/or deliverables as they may reasonably require or request consistent with the Prepetition Loan Documents.</p> <p>Any modifications of the Final Orders shall require the prior written consent of the DIP Secured Parties.</p>
<p>REPRESENTATIONS AND WARRANTIES:</p>	<p>The representations and warranties set forth in Sections 5.01 through 5.04, 5.06 through 5.10, 5.12, 5.13, 5.15, 5.17, and 5.18 of the Prepetition Credit Agreement are incorporated herein by reference and shall be deemed made by the Debtors for the benefit of the DIP Secured Parties in respect of the DIP Facility and DIP Obligations, <i>mutatis mutandis</i>, as if fully set forth herein, on the Interim Closing Date, on the Final Closing Date and on the date of each credit extension hereunder. Each Debtor further represents that the proceeds of each advance hereunder shall be used solely in accordance with the “Use of Proceeds” section of this Term Sheet.</p>
<p>AFFIRMATIVE COVENANTS:</p>	<p>From and after the Closing Date, each Debtor shall:</p> <p>(i) comply with the affirmative covenants set forth in Sections 6.04 through 6.08, 6.11 and 6.12 of the Prepetition Credit Agreement which are incorporated herein by reference for the benefit of the DIP Secured Parties in respect of the DIP Facility and DIP Obligations, <i>mutatis mutandis</i>, as if fully set forth herein;</p> <p>(ii) timely deliver, or cause to be timely delivered, to the DIP Lender the Approved Budget and Approved Variance</p>

	<p>Reports, and all other financial reports, budgets, forecasts, and legal and financial documentation requested by the DIP Lender (or their respective legal advisors), all in accordance with the provisions set forth herein;</p> <p>(iii) deliver, or continue to deliver, to the DIP Lender all financial and other information required to be delivered by any Debtor under Sections 6.01, 6.02, and 6.03 of the Prepetition Credit Agreement which are incorporated herein by reference for the benefit of the DIP Secured Parties in respect of the DIP Facility and DIP Obligations, mutatis mutandis, as if fully set forth herein;</p> <p>(iv) (a) keep proper books, records and accounts in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to their business and activities and consistent with Section 6.09 of the Prepetition Credit Agreement, (b) cooperate, consult with, and provide to the DIP Secured Parties all such information as required or as reasonably requested by the DIP Secured Parties, (c) permit, upon three (3) business days' notice, representatives of the DIP Secured Parties to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective inventory and accounts, to tour the Debtors' business premises and other properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations and accounts with their respective officers, employees and independent public accountants as often as may reasonably be desired, and (d) permit representatives of the DIP Secured Parties to consult with and advise the Debtors' management on matters concerning the general status of the Debtors' business, financial condition and operations;</p> <p>(v) comply with the Approved Budget (subject to the Permitted Variances) and with provisions of this Term Sheet, DIP Orders and the Canadian DIP Recognition Orders (as applicable);</p> <p>(vi) except to the extent (a) contemplated by the Approved Budget, (b) the failure to do so could not reasonably be expected to cause a Material Adverse Change, or (c) otherwise consented to by the DIP Lender in writing, continue, and cause to be continued, the business of the Debtors, maintain, and cause to be maintained, the Debtors'</p>
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	<p>existence and material relationships, rights and privileges, and comply with all material contractual obligations;</p> <p>(vii) take, or cause to be taken, all appropriate action, to do or cause to be done all things necessary, proper or advisable, to pursue and consummate the Plan in accordance with the Chapter 11 Milestones, and provide the DIP Lender with copies of any bids (including, without limitation, any information, financial or otherwise, submitted in connection with any bids) upon receipt by the Debtors;</p> <p>(viii) do or cause to be done all things reasonably necessary, proper or advisable under applicable law, and to execute and deliver such documents and other papers, as may be reasonably requested by the DIP Secured Parties to carry out the provisions of this Term Sheet, the Interim Order, the Final Order or the Canadian DIP Recognition Orders;</p> <p>(ix) take, or cause to be taken, all appropriate action to remain the sole owner of the DIP Collateral, free of liens other than Permitted Liens and Permitted Prepetition Liens;</p> <p>(x) take, or cause to be taken, all appropriate action to comply with all material applicable laws with respect to the DIP Collateral;</p> <p>(xi) pay when due all U.S. Trustee fees;</p> <p>(xii) provide all notices received from the Purchaser under the APA, and exercise or refrain from exercising, as applicable, such rights, in each case, in accordance with the written instructions (emails suffice) of the DIP Agent, and otherwise allow the DIP Agent to participate and audit any of the Debtors' rights under the APA;</p> <p>(xiii) the Debtors shall not release or otherwise terminate, or cause to be released or otherwise terminated, any security interest granted by the Debtors' non-debtor affiliates under the Prepetition Loan Documents before a substitute, valid right of pledge or similar charge has been created, consented to and perfected by such affiliate in favor of the Prepetition Secured Parties (which substitute shall include a right, pledge or charge against any proceeds of the asset on which the security interest has been released or terminated); and</p> <p>(xiv) promptly provide such additional information concerning the Debtors, the Plan, or the DIP Collateral as the</p>
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	<p>DIP Secured Parties may reasonably request and access to Debtors’ officers, directors, and advisors to discuss such information at reasonable times during normal business hours (and such officers, directors, and advisors shall be directed to discuss such information with the DIP Secured Parties).</p>
<p>NEGATIVE COVENANTS:</p>	<p>Unless otherwise provided in the Approved Budget, this Term Sheet or as part of the Plan, no Debtor shall, without the express, prior written consent of the DIP Agent, do, or cause to be done, any of the following:</p> <p>(i) create, incur, assume or suffer to exist any lien (other than a Prepetition Permitted Lien) upon any of its property, assets, income or profits, whether now owned or hereafter acquired, except valid, perfected and unavoidable liens existing as of the Petition Date which, other than Permitted Liens, are junior to the liens securing the DIP Facility, and shall not cause, or permit to be caused, any direct or indirect subsidiary of Borrower that is not a Debtor to, create, incur, assume or suffer to exist any such liens;</p> <p>(ii) convey, sell, lease, assign, transfer or otherwise dispose of (including through a transaction of merger or consolidation) any of its property, business or assets, whether now owned or hereafter acquired, out of the ordinary course of business;</p> <p>(iii) incur or make any expenditure, investment or other payment, or any Restricted Payment (as defined in the Prepetition Credit Agreement), other than in accordance with the Approved Budget, subject to the Permitted Variances;</p> <p>(iv) create, or acquire any ownership interest in, any subsidiaries (whether direct or indirect) other than those existing on the Petition Date;</p> <p>(v) create, incur assume or suffer to exist any indebtedness other than (A) indebtedness of the Debtors under this Term Sheet, (B) indebtedness contemplated by the Approved Budget and (D) indebtedness permitted under Section 7.03(l), (o), (v) or (z) of the Prepetition Credit Agreement;</p> <p>(vi) enter into any transaction of any kind with any Affiliate of Borrower without the DIP Agent’s prior written consent or as otherwise permitted by the order of the Bankruptcy Court governing the Debtors’ authorization to continue using its cash management system; or</p>

	<p>(vi) consummate any amendment, restatement, supplement or other modification to or waiver of any of its organization documents.</p>
<p>EVENTS OF DEFAULT:</p>	<p>Each of the following shall constitute an “Event of Default”:</p> <p>(i) after the first applicable testing date, the occurrence of any deviation from the Approved Budget that is greater than the Permitted Variances; <i>provided, that</i>, the DIP Lender may only declare an Event of Default arising from any deviation from the Professional Fee Variance if the DIP Lender and such Professional Person cannot mutually agree to a good faith modification during the Meet and Confer;</p> <p>(ii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents, DIP Orders, the Canadian DIP Recognition Orders or Approved Budget;</p> <p>(iii) any modification by the Debtors of the DIP Secured Parties’ rights under the DIP Documents, DIP Orders or the Canadian DIP Recognition Orders;</p> <p>(iv) failure of any of the Chapter 11 Milestones to be satisfied;</p> <p>(v) failure by any Debtor to be in compliance in all material respects with the sections of the Term Sheet entitled “Affirmative Covenants” (and five (5) business days shall have elapsed since the DIP Lender shall have given notice to the Debtors of such failure) and “Negative Covenants” or failure to otherwise be in compliance in all material respects with any other provision of this Term Sheet, the DIP Orders and the Canadian DIP Recognition Orders;</p> <p>(vi) failure of any representation or warranty to be true and correct in all material respects when made;</p> <p>(vii) the filing of any application by the Debtors for the approval of (or an order is entered by the Court approving) any claim arising under Section 507(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or any security, mortgage, collateral interest or other lien in any of the Chapter 11 Cases or CCAA Recognition Proceedings which is <i>pari passu</i> with or senior to the DIP Superpriority Claims or the DIP Liens, excluding liens arising under the DIP Orders or the Canadian DIP Recognition Orders, or</p>

	<p>pursuant to any other financing agreement made with the prior written consent of the DIP Agent;</p> <p>(viii) the filing of any application by the Debtors for the approval of (or an order is entered by the Court authorizing) compensation or other amounts under any employee or executive incentive or retention plans (or any similar sort of retention or incentive program) without the prior written consent of the DIP Secured Parties in their sole discretion;</p> <p>(ix) any request made by the Debtors for, or the reversal, modification, amendment, stay, reconsideration or vacatur of the DIP Orders, as entered by the Bankruptcy Court or the Canadian DIP Recognition Orders, as entered by the CCAA Court, as applicable, without the prior written consent of the DIP Secured Parties;</p> <p>(x) the commencement of any action by the Debtors or other authorized person (other than an action permitted by the DIP Orders or the Canadian DIP Recognition Orders) against any of the DIP Secured Parties or its agents and employees, to subordinate or avoid any liens made in connection with the DIP Orders or the Canadian DIP Recognition Orders;</p> <p>(xi) (1) the assertion by the Debtors in any pleading filed in any court that any material provision of the DIP Orders, the Canadian DIP Recognition Orders or this Term Sheet is not valid and binding for any reason, or (2) any material provision of the DIP Orders, the Canadian DIP Recognition Orders or this Term Sheet shall for any reason, or any other order of this Court approving the Debtors' use of Cash Collateral (as defined in the DIP Orders), cease to be valid and binding (without the prior written consent of the DIP Secured Parties);</p> <p>(xii) the filing with the Bankruptcy Court of a plan of reorganization or liquidation in any of the Chapter 11 Cases other than the Plan;</p> <p>(xiii) the appointment or entry of an order in any of the Chapter 11 Cases of a trustee, receiver, examiner, or responsible officer with enlarged powers relating to the operation of the business of any Debtor (powers beyond those set forth in sections 1106(a)(3) and (a)(4) of the Bankruptcy Code), unless such appointment or order has not been</p>
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	<p>reversed, stayed, or vacated within thirty (30) days after the entry of such order;</p> <p>(xiv) the granting of relief from the automatic stay by the Bankruptcy Court or of the stay ordered by the CCAA Court to any other creditor or party in interest in the Chapter 11 Cases with respect to any portion of the DIP Collateral exceeding \$100,000 in value in the aggregate;</p> <p>(xv) failure to pay principal, interest or other DIP Obligations in full in cash when due, including without limitation, on the Maturity Date;</p> <p>(xvi) the allowance of any claim or claims under section 506(c) or 552(b) of the Bankruptcy Code against or with respect to any DIP Collateral;</p> <p>(xvii) withdrawal or material modification by the Debtors of any motion in connection with the Backyard Sale, without the consent of the DIP Secured Parties;</p> <p>(xviii) the Debtors seek to consummate an Alternative Transaction (as defined in the APA) without the prior written consent of the DIP Secured Parties;</p> <p>(xix) the Plan is not confirmed or is changed without the DIP Secured Parties' consent, or the Plan Sponsor breaches (or is anticipated to breach) its obligations under the Plan;</p> <p>(xx) the occurrence of any Material Adverse Change;</p> <p>(xxi) any termination of the RSA or the APA;</p> <p>(xxii) the actual amount of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims (each as defined in the Plan) exceeds or is expected to exceed the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount;</p> <p>(xxiii) the occurrence of any Negative Purchase Variance under any Purchase Price Calculation;</p> <p>(xxiv) such other events of default to be included in the DIP Orders as reasonably specified by the DIP Secured Parties with the reasonable consent of the Debtors; and</p>
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	<p>(xxv) the conversion of any Chapter 11 Case to a Chapter 7 case(s), or any Debtor shall file a motion or other pleading seeking the conversion of any Chapter 11 Case to chapter 7 of the Bankruptcy Code or the making of an assignment bankruptcy by or entry by any Canadian court of a bankruptcy order in respect of any of the Debtors under the BIA, or the entry of an order of any Canadian court appointing a receiver under the BIA over any DIP Collateral, in each case, without the prior written consent of DIP Agent.</p>
<p>REMEDIES UPON EVENT OF DEFAULT:</p>	<p>Upon the occurrence and during the continuance of any Event of Default and delivery of a Carve-Out Trigger Notice (as defined in the Interim DIP Order or the Final DIP Order, as applicable) and delivery by the DIP Agent of five (5) business days' notice to the Debtors (the "Notice Period"), during which time the Debtors may seek an emergency hearing before the Bankruptcy Court, the DIP Secured Parties may not exercise rights or remedies; <i>provided, that</i>, if a hearing cannot be scheduled prior to the expiration of the Notice Period solely as a result of the Bankruptcy Court's unavailability, the Notice Period shall be automatically extended to the date that is one (1) business day after the first date that the Bankruptcy Court is available.</p> <p>After the expiration of the Notice Period, the DIP Secured Parties may (except as otherwise ordered by the Bankruptcy Court or the CCAA Court):</p> <ul style="list-style-type: none"> (i) declare all DIP Obligations (including principal of and accrued interest on any outstanding DIP Loans) to be immediately due and payable; (ii) terminate the DIP Facility and/or any further commitment to lend to Borrower; and (iii) exercise rights and remedies pursuant to the terms of the DIP Documents, the DIP Orders, the Canadian DIP Recognition Orders or applicable law, and if requested by the DIP Agent in connection with such exercise of rights and remedies, the Debtors shall cooperate with the DIP Agent to, among other things, (A) make reasonable efforts to collect accounts receivable, without setoff by any account debtor, (B) provide at all reasonable times access to the Debtors' premises to representatives or agents of the DIP Agent (including any collateral liquidator or consultant), (B) provide the DIP Agent and their representatives or agents, at all reasonable times access to the Debtors' books and records

	<p>and any information or documents requested by the DIP Agent or their respective representatives, (C) perform all other obligations set forth in the DIP Documents, and (D) take reasonable steps to safeguard and protect the DIP Collateral, and</p> <p>(iv) the Debtors shall not otherwise interfere with or actively encourage others to interfere with the DIP Agent’s enforcement of rights including, without limitation, the right to (W) take any actions reasonably calculated to preserve or safeguard the DIP Collateral or to prepare the DIP Collateral for sale; (X) foreclose or otherwise enforce the DIP Liens on any or all of the DIP Collateral; (Y) immediately set off any and all amounts held as Cash Collateral (including, without limitation, in any Cash Collateral account held for the benefit of the DIP Agent and DIP Lenders); and/or (Z) exercise any other default-related rights and remedies under the under the DIP Facility Documents, this Interim Order the DIP Orders, the Canadian DIP Recognition Orders or applicable law.</p>
<p>DIP SECURED PARTIES’ EXPENSES:</p>	<p>All reasonable, documented out-of-pocket costs and expenses of the DIP Secured Parties relating to the DIP Facility, the Debtors’ Chapter 11 Cases, and the CCAA Recognition Proceedings (including, without limitation, prepetition and post-petition reasonable and documented fees and disbursements of counsel and advisors) shall be payable by Borrower promptly upon written demand (together with summary backup documentation supporting such reimbursement request) and without the requirement for Bankruptcy Court or CCAA Court approval.</p> <p>A copy of summary invoices for the U.S. advisors to the DIP Secured Parties and Prepetition Secured Parties shall be provided by the Debtors to the Office of the U.S. Trustee, and counsel for any statutory committee, subject to customary review periods.</p>
<p>RELEASES:</p>	<p>The Interim Order and Final Order shall provide customary releases for each of the DIP Secured Parties and the Prepetition Secured Parties and each of their respective each of their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates and successors and predecessors in interest (in their respective capacities as such) (collectively, the “Released Parties”) with respect to all claims and liabilities arising from</p>

	the DIP Facility, the DIP Liens, the DIP Superpriority Claims, the DIP Documents and the Prepetition Secured Parties with respect to the Prepetition Obligations and the Prepetition Loan Documents; <i>provided that</i> , with respect to the Prepetition Secured Parties, such releases shall be subject to the Challenge Period.
INDEMNITY:	Each Debtor shall indemnify, pay and hold harmless the DIP Secured Parties (and each of their directors, officers, members, employees and agents) against any loss, liability, cost, or expense incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof (except to the extent resulting from the gross negligence, or willful misconduct, bad faith, or a material breach of DIP Documents of the indemnified party, as determined by a final, nonappealable judgment of a court of competent jurisdiction).
CREDIT BID:	The DIP Agent shall have the right to credit bid the outstanding DIP Obligations on a dollar-for-dollar basis in any sale of DIP Collateral, subject to the requirement that the DIP Agent fund all Allowed Administrative Expenses, up to the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount and the Carve-Out, and the amount secured by and necessary to fund the Canadian Priority Charges (without duplication).
DIP ORDERS GOVERN:	To the extent of any conflict or inconsistency between this Term Sheet and the DIP Orders, the DIP Orders shall govern.
AMENDMENT AND WAIVER:	No provision of this Term Sheet or the DIP Orders may be amended other than by an instrument in writing signed by the DIP Secured Parties and Debtors, provided, however on the Petition Date, the Parties agree to update the amounts set forth in (i) of the “Acknowledgment; Ratification” section herein and the “Roll-Up” section herein.
GOVERNING LAW AND JURISDICTION:	<p>The laws of the State of New York (except as governed by mandatory provisions of the Bankruptcy Code or the CCAA) shall govern this Term Sheet.</p> <p>The parties to this Term Sheet shall submit to the exclusive jurisdiction of the Bankruptcy Court and shall waive any right to trial by jury. Notwithstanding the foregoing, the CCAA Court shall have exclusive jurisdiction of the CCAA Recognition Proceedings.</p>

<p>NOTICES:</p>	<p>All notices required to be provided hereunder shall be delivered to:</p> <p>(i) if to Debtors to: KidKraft, Inc. Attention: Geoffrey Walker Email: Geoff.W@kidkraft.com</p> <p>with a copy (which shall not constitute notice) to:</p> <p>Vinson & Elkins LLP Attention: David Meyer; William Wallander; Lauren Kanzer Email: dmeyer@velaw.com; bwallander@velaw.com; lkanzer@velaw.com</p> <p>(ii) if to Prepetition Secured Parties or DIP Secured Parties to:</p> <p>GB Funding, LLC Attention: David Braun and Kyle Shonak Email: dbraun@gordonbrothers.com; kshonak@gordonbrothers.com</p> <p>with a copy (which shall not constitute notice) to:</p> <p>Katten Muchin Rosenman LLP Attention: Steven Reisman; Cindi Giglio Email: sreisman@katten.com; cgiglio@katten.com</p>
<p>COUNTERPARTS AND ELECTRONIC TRANSMISSION:</p>	<p>This Term Sheet may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Term Sheet by facsimile, “PDF” or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Term Sheet.</p>

Schedule 1

1. KidKraft, Inc.
2. KidKraft Intermediate Holdings, LLC
3. KidKraft International Holdings, Inc.
4. KidKraft Europe, LLC
5. KidKraft International IP Holdings, LLC
6. KidKraft Partners, LLC
7. Solowave Design Corp.
8. Solowave Design Inc.
9. Solowave Design LP
10. Solowave Design Holdings Limited
11. Solowave International Inc.

Exhibit A

Approved Budget

KidKraft, Inc. DIP Budget (9 Weeks)

DIP Week>>
 Week End>>

	1	2	3	4	5	6	7	8	9	Total
	5/10/2024	5/17/2024	5/24/2024	5/31/2024	6/7/2024	6/14/2024	6/21/2024	6/28/2024	7/5/2024	
Total Inflows	2,000,000	2,097,889	1,796,228	1,079,983	1,810,476	2,048,180	2,120,225	2,160,181	2,565,020	17,678,181
Operating Cash Flow:										
Factory Payments	1,089,533	1,041,389	733,769	594,427	1,796,758	1,806,739	1,737,717	762,125	694,866	10,257,323
Cost of Sales (Shipping, Testings, etc.)	301,795	314,211	444,969	195,409	203,911	161,007	387,578	188,353	214,588	2,411,821
Employee Costs	295,450	392,254	291,039	39,254	291,039	39,254	291,039	39,254	291,039	1,715,874
Operating Expenses	518,985	377,348	266,077	410,319	797,084	535,720	217,965	378,859	545,151	4,097,506
Intercompany (from)/to China	342,000	660,000	-	-	-	225,000	570,000	-	-	1,925,226
Total Operational Outflows	2,547,763	2,432,202	1,735,853	1,239,408	3,088,792	2,767,720	3,204,299	1,368,591	1,745,643	20,407,750
Restructuring Fees:										
Professional Fees - BK Restructuring	30,000	626,545	574,878	408,212	424,878	408,212	633,212	429,878	526,545	5,287,361
Professional Fees - Trustee Fees (est)	-	-	-	-	-	-	-	-	-	250,000
Other	27,250	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	87,250
Total Restructuring Outflows	57,250	634,045	582,378	415,712	432,378	415,712	640,712	437,378	534,045	5,624,611
Other Obligations										
Other Employee Obligations	-	-	-	-	-	-	-	-	58,905	58,905
Priority Tax Claims	-	-	-	300,700	-	-	-	-	175,000	750,700
Severance	93,257	-	-	-	-	-	-	-	57,848	151,105
Post Sale Reserve	-	-	-	-	-	-	-	-	-	643,000
Pre-Petition Vendor Payments - CV/503b9/Shippers	-	525,000	-	425,000	-	-	-	-	-	950,000
Utility Deposit	-	20,000	-	-	-	-	-	-	-	20,000
Total Incremental Outflows	93,257	545,000	-	725,700	-	-	-	-	291,753	2,573,710
Net Cash Flow	(698,270)	(1,513,359)	(522,004)	(1,300,837)	(1,710,695)	(1,135,251)	(1,724,786)	354,211	(6,421)	(10,927,891)
Cash Requirement										
Beginning Book Balance	2,129,070	1,430,800	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070
Net Cash Flow	(698,270)	(1,513,359)	(522,004)	(1,300,837)	(1,710,695)	(1,135,251)	(1,724,786)	354,211	(6,421)	(10,927,891)
DIP Financing	-	2,211,629	522,004	1,300,837	1,710,695	1,135,251	1,724,786	(354,211)	6,421	8,798,821
Ending Cash	1,430,800	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	-
DIP Financing										
Interest/Origination Fee/Exit Fee	-	210,000	-	-	-	-	-	-	841,994	1,051,994
DIP Financing	-	2,211,629	522,004	1,300,837	1,710,695	1,135,251	1,724,786	(354,211)	6,421	8,798,821
Ending Balance	-	2,421,629	522,004	1,300,837	1,710,695	1,135,251	1,724,786	(354,211)	848,416	9,850,815

Schedule “L”

Form of Notice

Court File No.: CV-24-00720035-00CL

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

AND IN THE MATTER OF KIDKRAFT, INC., SOLOWAVE DESIGN HOLDINGS LIMITED, SOLOWAVE DESIGN INC., SOLOWAVE INTERNATIONAL INC., AND SOLOWAVE DESIGN LP (collectively, the "**Canadian Debtors**")

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

NOTICE OF RECOGNITION ORDERS

PLEASE BE ADVISED that this Notice is being published pursuant to orders of the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") granted on May 15, 2024 (the "**Recognition Orders**").

PLEASE TAKE NOTICE that on May 10, 2024, the Canadian Debtors and certain other of their affiliates filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code (the "**Chapter 11 Cases**") with the United States Bankruptcy Court for the Northern District of Texas Dallas Division (the "**U.S. Court**"). In connection with the Chapter 11 Cases, KidKraft, Inc. has been appointed as the foreign representative of the Canadian Debtors. KidKraft, Inc.'s address is 4630 Olin Road Dallas, TX 75244 USA.

AND TAKE NOTICE that the Recognitions Orders granted by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA Proceedings**"), among other things: (i) recognize the Chapter 11 Cases as a "foreign main proceeding"; (ii) grant a stay of proceedings in respect of the Canadian Debtors, their property and their directors and officers in Canada; (iii) prohibit the commencement of any proceedings against the Canadian Debtors in Canada absent further order of the Canadian Court; and (iv) appoint KSV Restructuring Inc. as Information Officer in the CCAA Proceedings.

AND TAKE NOTICE that the motions and notices filed with, and the orders entered by (i) the U.S. Court are available at <https://cases.stretto.com/kidkraft/>, and (ii) the Canadian Court are available at <https://www.ksvadvisory.com/experience/case/KidKraft>.

AND TAKE NOTICE that Canadian counsel for the Canadian Debtors is:

Osler, Hoskin & Harcourt LLP
1 First Canadian Place, 100 King West, Suite 6200
Toronto, ON M5X 1B8
Email: jkanji@osler.com

PLEASE FINALLY TAKE NOTICE that for further information on the CCAA Proceedings you may contact the Information Officer at:

KSV Restructuring Inc.
150 King Street West, #2308
Toronto, ON M5H 1J9

Phone: 647 848 1350
Email: mostling@ksvadvisory.com

DATED AT TORONTO, ONTARIO this May 15, 2024.

KSV RESTRUCTURING INC., solely in its capacity as Information Officer in the CCAA Proceedings and not in its personal or corporate capacity

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

AND IN THE MATTER OF KIDKRAFT, INC., SOLOWAVE DESIGN HOLDINGS LIMITED., SOLOWAVE DESIGN INC.,
SOLOWAVE INTERNATIONAL INC. AND SOLOWAVE DESIGN LP

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36 AS AMENDED

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

OSLER, HOSKIN & HARCOURT LLP

1 First Canadian Place, P.O. Box 50
Toronto, ON M5X 1B8
Fax: 416.862.6666

Tracy C. Sandler (LSO# 32443N)
Tel: 416.862.5890
Email: tsandler@osler.com

Martino Calvaruso (LSO# 57359Q)
Tel: 416.862.6665
Email: mcalvaruso@osler.com

Mark Sheeley (LSO# 66473O)
Tel: 416.862.6791
Email: msheelley@osler.com

Lawyers for the Applicant

THIS IS **EXHIBIT “E”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00720035-00CL

DATE: May 17, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: KIDKRAFT, INC.

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Mark Sheeley	Lawyers for the Applicant, Kidkraft Inc.	msheeley@osler.com
Emilie Dillon		edillon@osler.com
Justin Kanji		jkanji@osler.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Virginie Gauthier	Lawyer for the KSV Restructuring Inc.	virginie.gauthier@gowlingwlg.com
Heather Meredith	Lawyers for the Backyard Products LLC	hmeredith@mccarthy.ca
Ella Hantho		ethantho@mccarthy.ca
Mitch Stephenson	Lawyers for the Gordon Brothers	mstephenson@fasken.com
Stuart Brotman		sbrotman@fasken.com

ENDORSEMENT OF JUSTICE CAVANAGH:

- [1] KidKraft, Inc. (“KidKraft”, and together with its debtor and non-debtor affiliates, the “Company”), in its capacity as the proposed foreign representative of Solowave Design Holdings Limited, Solowave International Inc., and Solowave Design Inc. (the “Canadian Corporate Debtors”), Solowave Design LP (together with the Canadian Corporate Debtors, the “Canadian Debtors”), and itself, brings this application for:

- a. an order (the “Initial Recognition Order”), among other things:
 - i. recognizing the Chapter 11 Cases (as defined in the application materials) in respect of KidKraft and the Canadian Debtors as “foreign main proceedings” pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (the “CCAA”); and
 - ii. recognizing KidKraft as the “foreign representative” in respect of the Chapter 11 Cases (as defined in the application materials) of KidKraft and the Canadian Debtors; and
- b. an order (the “Supplemental Order”), among other things:
 - i. recognizing certain other First Day Orders issued by the U.S. Court in the Chapter 11 Cases, including the Foreign Representative Order (each as defined in the application materials);
 - ii. granting a stay of proceedings in respect of KidKraft and the Canadian Debtors and their respective directors and officers (the “Canadian Stay”);
 - iii. appointing KSV Restructuring Inc. (“KSV Restructuring”) as the information Officer in this proceeding (in such capacity, the “Information Officer”);
 - iv. granting a Court-ordered charge on the present and future assets, property and undertakings of KidKraft located in Canada and of the Canadian Debtors (the “Canadian Property”) to secure:
 1. the professional fees and disbursements incurred in respect of this proceeding by the Information Officer, its counsel and KidKraft and the Canadian Debtors’ Canadian counsel (the “Administration Charge”);
 2. the indemnity granted by KidKraft and the Canadian Debtors in favour of their respective directors and officers in respect of obligations and liabilities in Canada that they may incur as directors or officers after the commencement of this proceeding (the “D&O Charge”); and
 3. advances under a debtor-in-possession credit facility (the “DIP Charge”).

[2] No one appeared today to oppose this application.

[3] On May 10, 2024, KidKraft, and the Canadian Debtors, and six other debtors and debtors in possession filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code and several first day motions and applications (the “First Day Motions”), with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “U.S. Court”), commencing the “Chapter 11 Cases”.

[4] The U.S. Court heard the First Day Motions on May 13, 2024 and entered orders (the “First Day Orders”) on May 13 and 14, including an order authorizing KidKraft to act as the Foreign Representative on behalf of itself and the Canadian Debtors in the *CCAA* proceedings.

[5] Now that the First Day Orders have been granted, the Foreign Representative seeks the proposed Initial Recognition Order and Supplemental Order from this Court.

[6] The Foreign Representative submits that this Court should exercise its discretion to grant the requested orders because this relief is necessary to protect and preserve the operations and value of the Company’s business in Canada, while the Chapter 11 Debtors, including the Canadian Debtors, pursue a comprehensive and coordinated restructuring in the Chapter 11 Cases. The Foreign Representative also submits that granting the requested orders is consistent with the principles of comity that underlie the provisions of Part IV of the *CCAA* and will assist in providing the Company with the breathing room to restructure its business and emerge as a strong and sustainable enterprise for the benefit of a broad range of stakeholders.

[7] The facts in respect of this application are set out in the materials and are summarized in the Applicant’s factum at paragraphs 7-20.

[8] I am satisfied that the Chapter 11 Cases should be recognized as foreign main proceedings. In this respect, I accept the submissions made on behalf of the Applicant at paragraphs 22-35 of its factum.

[9] I am satisfied that the Initial Recognition Order and Supplemental Order should be granted. In this respect, I accept the submissions made on behalf of the Applicant at paragraphs 36-54 of its factum.

[10] Orders to issue in forms of Orders signed by me today.

THIS IS **EXHIBIT “F”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 7, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 10

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

FINAL ORDER
(I) AUTHORIZING THE DEBTORS TO
(A) MAINTAIN AND ADMINISTER THEIR CUSTOMER
PROGRAMS; (B) RENEW, REPLACE, IMPLEMENT, OR MODIFY THEIR
CUSTOMER PROGRAMS; AND (C) HONOR THEIR OBLIGATIONS RELATED
TO THE CUSTOMER PROGRAMS, AND (II) GRANTING RELATED RELIEF

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Final Order*”) (i) authorizing the Debtors to (a) maintain and administer their Customer Programs; (b) renew, replace, implement, or modify their Customer Programs; and (c) honor their obligations related to the Customer Programs, in the ordinary course of business consistent with past practice and in the Debtors’ business judgment, all as more fully set forth in the Motion and in the First Day Declaration; and (ii) granting related relief, and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having entered the Interim Order; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion under the circumstances and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is **HEREBY ORDERED THAT:**

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

1. The Debtors are authorized pursuant to sections 105(a), 363(b), 1107(a), and 1108 of the Bankruptcy Code, to maintain and administer the Customer Programs in the ordinary course of business consistent with past practice.

2. The Debtors are authorized, in their discretion, to renew, replace, implement, or modify their Customer Programs, in whole or in part, in accordance with the Debtors' business judgment.

3. The Debtors are authorized to honor their obligations owing to their customers in connection with, relating to, or based upon their Customer Programs.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Customer Programs.

7. Notwithstanding the relief granted herein or actions taken hereunder, nothing contained in the Motion or this Final Order or any payment made pursuant to this Final Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights

to subsequently dispute such claim or lien, a promise or requirement to pay any claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

8. Notwithstanding anything in this Final Order to the contrary, any payment to be made, or any authorization contained hereunder, shall be subject to the terms of any orders authorizing debtor-in-possession financing or the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any approved budget governing or relating to such use) (such order, collectively with any such approved budget, the "*DIP Order*"); and to the extent there is any inconsistency between the terms of such DIP Order and any action taken or proposed to be taken hereunder, the terms of such DIP Order shall control.

9. The requirements of Bankruptcy Rule 6004(a) are waived.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon entry of this Final Order.

11. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Final Order.

END OF ORDER

Order submitted by:

VINSON & ELKINS LLP

William L. Wallander (Texas Bar No. 20780750)
Matthew D. Struble (Texas Bar No. 24102544)
Kiran Vakamudi (Texas Bar No. 24106540)
2001 Ross Avenue, Suite 3900
Dallas, TX 75201
Tel: 214.220.7700
Fax: 214.999.7787
bwallander@velaw.com
mstruble@velaw.com
kvakamudi@velaw.com

- and -

David S. Meyer (admitted *pro hac vice*)
Lauren R. Kanzer (admitted *pro hac vice*)
1114 Avenue of the Americas, 32nd Floor
New York, NY 10036
Tel: 212.237.0000
Fax: 212.237.0100
dmeyer@velaw.com;
lkanzer@velaw.com

**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

THIS IS **EXHIBIT "G"** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 7, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket No. 34

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

**ORDER (I) ESTABLISHING BAR DATES AND PROCEDURES
AND (II) APPROVING THE FORM AND MANNER OF NOTICE**

Upon the motion (the “*Motion*”)² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (this “*Order*”) establishing bar dates and procedures and approving the form and manner of notice thereof, all as more fully set forth in the Motion; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the 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 the Court having reviewed the Motion; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The General Bar Date shall be fixed as **June 28, 2024 at 5:00 p.m. (Prevailing Central Time)**.
2. The Governmental Bar Date shall be fixed as **November 6, 2024 at 5:00 p.m. (Prevailing Central Time)**.

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

3. The Amended Schedules Bar Date shall be fixed as the **later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) 5:00 p.m. (Prevailing Central Time), on the date that is 21 days from the date on which the Debtors provide notice of the previously unfiled Schedule or amendment or supplement to the Schedules.**

4. The Rejection Damages Bar Date shall be fixed as the **later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) 5:00 p.m. (Prevailing Central Time) on the date that is 21 days following service of an order approving the rejection of any executory contract or unexpired lease of the Debtors.**³

5. The forms of the Bar Dates Notice, the Proof of Claim Form, the Publication Notice, and the manner of providing notice of the Bar Dates proposed in the Motion are approved in all respects. The form and manner of notice of the Bar Dates approved herein satisfy the notice requirements of the Bankruptcy Code and the Bankruptcy Rules.

6. Subject to terms described in this Order for holders of claims subject to the Governmental Bar Date, the following entities must file proofs of claim on or before the General Bar Date:

- (i) any person or entity whose claim against a Debtor is not listed in the applicable Debtor's Schedules, or is listed in such Schedules as "contingent," "unliquidated," or "disputed," if such person or entity desires to participate in any of these chapter 11 cases or share in any distribution in any of these chapter 11 cases;
- (ii) any person or entity who believes that its claim is improperly classified in the Schedules or is listed in an incorrect amount and who desires to have its claim allowed in a different classification or amount other than that identified in the Schedules;
- (iii) any person or entity who believes that its prepetition claim as listed in the Schedules is not an obligation of the specific Debtor against which the claim

³ To the extent any executory contract or unexpired lease is rejected pursuant to the terms of the Plan, the order confirming the Plan shall provide a separate bar date as the deadline on or before which claimants holding claims for damages arising from such rejection must file proofs of claim with respect to such rejection, which date will be 21 days after service of a notice of the Plan effective date.

is listed and who desires to have its claim allowed against a Debtor other than that identified in the Schedules; and

- (iv) any person or entity who believes that its claim against a Debtor is or may be an administrative expense pursuant to section 503(b)(9) of the Bankruptcy Code.

7. The following entities, whose claims otherwise would be subject to the General Bar

Date or the Governmental Bar Date, need not file proofs of claim in these chapter 11 cases:

- (i) any person or entity who has already filed a signed proof of claim against the respective Debtor(s) with the Clerk of the Court or with Stretto, the Debtors' claims and noticing agent, in a form substantially similar to Official Form 410;
- (ii) any person or entity whose claim is listed on the Schedules if: (a) the claim is *not* scheduled as any of "disputed," "contingent," or "unliquidated;" (b) such person or entity agrees with the amount, nature, and priority of the claim as set forth in the Schedules; and (c) such person or entity does not dispute that its claim is an obligation only of the specific Debtor against which the claim is listed in the Schedules;
- (iii) any person or entity whose claim has previously been allowed by order of the Court on or before the applicable Bar Date;
- (iv) any person or entity whose claim has been paid in full by the Debtors pursuant to the Bankruptcy Code or in accordance with an order of the Court;
- (v) any Debtor having a claim against another Debtor;
- (vi) any person or entity whose claim is based on an equity interest in any of the Debtors;
- (vii) any current officer or director of any of the Debtors for claims based on indemnification, contribution, or reimbursement;
- (viii) any person or entity holding a claim for which a separate deadline is fixed by this Court;
- (ix) any person or entity holding a claim allowable under sections 503(b) or 507(a)(2) of the Bankruptcy Code as an expense of administration incurred in the ordinary course; *provided, however*, that any person or entity asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must assert such claim by filing a request for payment or a proof of claim on or prior to the General Bar Date;
- (x) Gordon Brothers, for claims arising from or relating to the DIP Facility, the Prepetition First Lien Term Facility, or the Prepetition First Lien Revolving Facility, respectively; and
- (xi) the Office of the United States Trustee for the Northern District of Texas.

8. Parties asserting claims against the Debtors that accrued before the Petition Date must use a proof of claim form (the “***Proof of Claim Form***”) substantially in the form attached as **Exhibit C** to the Motion.

9. The following procedures for the filing of a proof of claim shall apply:

- (i) Each proof of claim must be filed so that it is received on or before the applicable Bar Dates either (a) electronically through Stretto’s website, using the interface available on such website located at <https://www.cases.stretto.com/kidkraft> (the “***Electronic Filing System***”) or (b) by delivering the original proof of claim to:

If by First-Class Mail, Hand Delivery or Overnight Mail:

KidKraft, Inc.
Claim Processing Center
c/o Stretto, Inc.
410 Exchange, Suite 100
Irvine, CA 92602

- (ii) A proof of claim will be deemed filed when **actually received** by Stretto or by the Clerk of the Court.
- (iii) Proofs of claim may not be delivered via facsimile or electronic mail transmission (the Electronic Filing System not being considered electronic mail transmission). Any facsimile or electronic mail submissions **will not be accepted** and will not be considered properly or timely filed for any purpose in these chapter 11 cases.
- (iv) Proofs of claim will be collected, docketed, and maintained by Stretto.
- (v) All proofs of claim must be signed by the claimant or, if the claimant is not an individual, by an authorized agent of the claimant. The Proof of Claim Form must be completed in English and be denominated in United States currency. Claimants should set forth with specificity the legal and factual basis for the alleged claim and attach to the completed Proof of Claim Form any documents on which the claim is based (or, if such documents are voluminous, attach a summary) or an explanation as to why the documents are not available.
- (vi) Any person or entity asserting claims against multiple Debtors must file a separate proof of claim with respect to each Debtor. In addition, any person or entity filing a proof of claim must identify on its Proof of Claim Form the particular Debtor against which the entity asserts its claim. Any proof of claim filed under the Debtors’ joint administration case number, or that otherwise fails to identify a Debtor shall be deemed as filed only against Debtor KidKraft, Inc. If an entity lists more than one Debtor on any one

proof of claim, the relevant claims will be treated as filed only against the first listed Debtor.

10. Any entity holding an interest in the Debtors (an “*Interest Holder*”), which interest is based exclusively upon the ownership of: (i) a membership interest in a limited liability company; (ii) common or preferred stock in a corporation; or (iii) warrants or rights to purchase, sell or subscribe to such a security or interest (any such security or interest being referred to herein as an “*Interest*”), need not file a proof of interest on or before the General Bar Date; *provided, however*, Interest Holders who want to assert claims against the Debtors that arise out of or relate to the ownership or purchase of an Interest, including claims arising out of or relating to the sale, issuance or distribution of the Interest, must file a proof of claim by the applicable Bar Date, unless another exception identified in this Order applies.

11. Pursuant to Bankruptcy Rule 3003(c)(2), any person or entity that is required to file a proof of claim in these chapter 11 cases pursuant to the Bankruptcy Code, the Bankruptcy Rules or this Order with respect to a particular claim against the Debtors, but that fails to do so properly by the applicable Bar Date, shall not be treated as a creditor with respect to (i) such claim for purposes of voting upon any plan in these chapter 11 cases and (ii) distribution from property of the Debtors’ estates.

12. The Debtors shall retain the right to: (i) dispute, or assert offsets or defenses against, any filed proofs of claim, or any claim listed or reflected in the Schedules, as to nature, amount, liability, classification or otherwise; (ii) subsequently designate any scheduled claim as disputed, contingent, or unliquidated; and (iii) otherwise amend or supplement the Schedules.

13. Within 2 business days after entry of this Order, the Debtors, through Stretto or otherwise, shall serve the Bar Dates Notice Package, including a copy of the Bar Date Notice and the Proof of Claim Form, substantially in the forms attached to the Motion as **Exhibit B** and

Exhibit C, respectively, by first-class mail, postage prepaid, on: (i) all holders of claims or potential claims; (ii) the Office of the United States Trustee for the Northern District of Texas; (iii) counsel to the official committee of unsecured creditors, if any; (iv) all parties that have requested notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002 as of the date of the entry of the Order; (v) all known creditors and other known holders of potential claims against any of the Debtors; (vi) all counterparties to executory contracts and unexpired leases of the Debtors listed in the Schedules or their designated representatives; (vii) all parties to pending litigation with the Debtors; (viii) all current and former employees of the Debtors (to the extent that contact information for former employees is available in the Debtors' records); (ix) the Internal Revenue Service and all other taxing authorities for the jurisdictions in which the Debtors conduct business; (x) all relevant state attorneys general; (xi) all identified registered holders of any Interests in any of the Debtors as of the Petition Date (although copies of the Proof of Claim Form will not be provided to them); (xii) all other entities listed on the Debtors' respective creditor matrices; and (xiii) counsel to any of the foregoing, if known. The Debtors may also mail the Bar Dates Notice package by first-class United States mail, postage prepaid (or equivalent service) to any additional holders of claims or potential claims listed in the Debtors' Schedules, as soon as practicable but no later than three 2 business days after the Debtors file the Schedules.

14. The Debtors shall post the Bar Date Notice and Proof of Claim Form on Stretto's website at <https://www.cases.stretto.com/kidkraft>.

15. Pursuant to Bankruptcy Rule 2002(1) and 9008, the Debtors shall publish the Publication Notice in *The New York Times* (national edition), the national edition of *The Globe and Mail* in Canada, or such other publications as the Debtors may deem appropriate in their discretion as a means to provide notice of the Bar Dates to such unknown potential claimants. The

Debtors will cause such publication to occur 2 business days after serving the Bar Dates Notice Package or as soon as reasonably practicable thereafter.

16. The Debtors and Stretto are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

17. Entry of this Order is without prejudice to the right of the Debtors to seek a further order of this Court fixing the date by which holders of claims not subject to the Bar Dates established herein must file such claims against the Debtor or be forever barred from so doing.

18. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

End of Order

Order submitted by:

VINSON & ELKINS LLP

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Matthew D. Struble (Texas Bar No. 24102544)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

THIS IS **EXHIBIT “H”** REFERRED TO IN THE THIRD AFFIDAVIT OF GEOFFREY WALKER AFFIRMED BEFORE ME over video teleconference this 17th day of June, 2024 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Dallas, in the State of Texas, while the Commissioner was located in the City of Toronto, in the Province of Ontario.



A Commissioner for Taking Affidavits
Emma Smith (LSO# 87407T)



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 11, 2024

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 24-80045-mvl11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Jointly Administered)
	§	
	§	Re: Docket Nos. 22, 23, & 96

**SECOND INTERIM ORDER
PURSUANT TO 11 U.S.C. §§ 105, 361, 362,
363, 364, AND 507 AND FED. R. BANKR. P. 2002, 4001
AND 9014 (I) AUTHORIZING DEBTORS AND DEBTORS
IN POSSESSION TO OBTAIN POSTPETITION SENIOR
SECURED SUPERPRIORITY FINANCING, (II) AUTHORIZING
THE DEBTORS TO USE CASH COLLATERAL, (III) GRANTING
LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION TO THE
PREPETITION SECURED PARTIES, (V) MODIFYING THE AUTOMATIC STAY,
(VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF**

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers or Canadian business numbers, as applicable, are: KidKraft, Inc. (3303), KidKraft Europe, LLC (3174), KidKraft Intermediate Holdings, LLC (8800), KidKraft International Holdings, Inc. (2933), KidKraft Partners, LLC (3268), KidKraft International IP Holdings, LLC (1841), Solowave Design Corp. (9294), Solowave Design Holdings Limited (0206), Solowave Design Inc. (3073), Solowave Design LP (7201), and Solowave International Inc. (4302). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 4630 Olin Road, Dallas, TX 75244.

Upon the motion (the “**Motion**”) of the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) pursuant to §§ 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), and 364(d) of title 11 of the United States Code (the “**Bankruptcy Code**”), and Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the “**Bankruptcy Rules**”), and the General Order Regarding Procedures for Complex Cases (the “**Complex Case Procedures**”) made applicable by Rules 4001-1 and 9013-1 of the Local Bankruptcy Rules (the “**N.D. Tex. L.B.R.**”) for the United States Bankruptcy Court for the Northern District of Texas (the “**Court**”) *inter alia* seeking, among other things:

(1) authorization for KidKraft, Inc. (“**KidKraft**” or “**Borrower**”) to obtain, and for KidKraft Intermediate Holdings, LLC (“**HoldCo**”, and together with the other Guarantors listed in Schedule 1 of the DIP Term Sheet, the “**Guarantors**”) to guarantee, unconditionally, on a joint and several basis, a senior secured super-priority multi-draw debtor-in-possession term loan credit facility (the “**DIP Facility**”) on the terms and conditions set forth in the Priming Superpriority Debtor-In-Possession Financing Term Sheet, dated as of April 25, 2024, attached hereto as **Exhibit A** (as amended, supplemented or otherwise modified from time to time in accordance with the terms and conditions set forth herein and including the references to the Prepetition Credit Agreement (as defined below) specified therein, the “**DIP Term Sheet**”),² by and among the Borrower, the Guarantors, GB Funding, LLC, as DIP Agent (“**DIP Agent**”), and 1903 Partners, LLC, as DIP Lender (“**DIP Lender**,” and, together with the DIP Agent, the “**DIP Secured Parties**”), and the other DIP Documents (as defined below) consisting of: (i) \$5.5 million of new money loans (the “**Interim DIP Commitment**”) to be provided following entry of the Second

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the DIP Term Sheet, as applicable.

Interim Order (as defined below) by DIP Lender, (ii) \$5.0 million of new money loans (the “**Final DIP Commitment**”) to be provided following entry of the Final Order by DIP Lender; and (iii) \$23.3 million of Prepetition Obligations, which will be deemed to have been advanced and shall convert into DIP Loans on a dollar-for-dollar cashless basis upon entry of the Final Order (the “**Roll-Up Amount**”, and together with the Interim DIP Commitment and the Final DIP Commitment, the “**DIP Commitment**”), and in accordance with this order (the “**Second Interim Order**”) secured by perfected senior priority security interests in and liens on the DIP Collateral (as defined below) pursuant to §§ 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code (subject to the Carve-Out and the Permitted Liens (each as defined below));

(2) authorization for Borrower and Guarantors to remit all collections, asset proceeds and payments to the DIP Secured Parties for application, or deemed application, first to the repayment of all DIP Obligations (as defined below) in accordance with the DIP Term Sheet and the other DIP Documents until such obligations are fully repaid, and then to the Prepetition Secured Parties for application until all Prepetition Obligations (as defined below) are fully repaid;

(3) authorization for the Debtors to grant superpriority administrative claim status, pursuant to § 364(c)(1) of the Bankruptcy Code, to DIP Agent, for the benefit of itself and DIP Lender, in respect of all DIP Obligations (subject to the Carve-Out);

(4) as set forth below, subject to Section 4.1 of this Second Interim Order, approval of certain stipulations by the Debtors as set forth in this Second Interim Order in connection with the Prepetition Credit Agreement;

(5) authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become due, including, without limitation, continuing commitment fees, closing fees, audit fees, appraisal fees, liquidator fees,

structuring fees, administrative agent's fees, the reasonable and documented fees and disbursements of DIP Agent's and DIP Lender's respective attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with, the applicable DIP Documents;

(6) as set forth below, authorization to use Cash Collateral and all other Prepetition Collateral and to provide adequate protection to Prepetition Agent and Prepetition Lender (each in their respective capacities under the Prepetition Loan Documents (as defined below)), to the extent set forth herein;

(7) effective only upon entry of a Final Order (as defined below), the waiver of the Debtors' right to assert claims to surcharge against the DIP Collateral pursuant to § 506(c) of the Bankruptcy Code;

(8) the modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Second Interim Order to the extent hereinafter set forth;

(9) the setting of a final hearing on the Motion ("***Final Hearing***") to consider entry of a final order (the "***Final Order***") authorizing, among other things, the borrowing under the DIP Documents on a final basis, as set forth in the Motion and the DIP Term Sheet filed with the Court including the granting to DIP Agent and DIP Lender the senior security interests and liens described above and super-priority administrative expense claims (subject to the Carve-Out); and

(10) related relief.

The initial hearing on the Motion having been held by the Court on May 13, 2024 (the "***Interim Hearing***"), and upon the record made by the Debtors at the Interim Hearing, including the Motion, the *Declaration of Geoffrey Walker in Support of Chapter 11 Petitions and*

First Day Pleadings [Docket No. 31], the *Declaration of Ajay Bijoor, Managing Director of Robert W. Baird & Co. Incorporated, in Support of (I) the Debtors' Motion to Obtain Postpetition Debtor in Possession Financing and (II) the Sale Process* [Docket No. 32], the *Declaration of Carl Moore, Manager of SierraConstellation Partners, LLC in Support of the Debtors' Motion to Obtain Postpetition Debtor in Possession Financing* [Docket No. 33], and the filings and pleadings in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”); and the Court having entered the *Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Authorizing Debtors and Debtors in Possession to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* [Docket No. 96] (the “**First Interim Order**,” and together with the Second Interim Order, the “**Interim Orders**”); and the Court having found that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest, and represents a sound exercise of the Debtors’ business judgment and is essential for the continued operation of the Debtors’ businesses; it appearing to the Court that granting the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing; notice of the Motion, the relief requested therein, and the Interim Hearing (the “**Notice**”) was sufficient under the circumstances; the Notice having been served by the Debtors in accordance with Bankruptcy Rules 4001 and 9014 and the Local Rules on (i) the administrative agent under the Prepetition Credit Agreement (the “**Prepetition Agent**”), (ii) Katten Muchin Rosenman LLP, as counsel to the Prepetition Agent, (iii) the Office of the U.S. Trustee for the Northern District of Texas (the “**U.S.**

Trustee”), (iv) King & Spalding LLP, as counsel to the buyer under the Debtors’ prepetition asset purchase agreement (the “*APA*”), (v) the holders of the thirty (30) largest unsecured claims, on a consolidated basis, against the Estates (the “*30 Largest Unsecured Creditors*”), (vi) the Internal Revenue Service and applicable state taxing authorities; (vii) any party that has asserted or may assert a lien in the Debtors’ assets, (viii) the office of attorneys general for the states in which the Debtors operate; (ix) the United States Attorney’s Office for the Northern District of Texas, (x) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002, (xi) the United States Securities and Exchange Commission, (xii) all other applicable government agencies to the extent required by the Bankruptcy Rules or the N.D. Tex. L.B.R, and (xiii) the DIP Lender (collectively, the “*Notice Parties*”); and the opportunity for a hearing on the Motion was appropriate and no other notice need be provided; and after due deliberation sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW³:

A. Petition. On May 10, 2024 (the “*Petition Date*”), each Debtor filed a voluntary petition (each, a “*Petition*”) under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

B. Disposition. The Motion is hereby granted in accordance with the terms of this Second Interim Order. Any objections to the Motion with respect to the entry of this Second

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Interim Order that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled.

C. Jurisdiction and Venue. The Court has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 1334. The Motion is a “core” proceeding as defined in 28 U.S.C. § 157(b), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Committee Formation. On May 23, 2024, the U.S. Trustee appointed the Committee in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code [Docket No. 120].

E. Basis for Relief. The statutory and legal predicates for the relief sought herein include sections 105, 361, 362, 363, 364 and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 9013 and 9014 and the applicable provisions of the Local Rules.

F. Notice. Proper, timely, adequate, and sufficient notice of the Motion has been provided under the circumstances in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Second Interim Order shall be required.

G. Debtors’ Acknowledgments, Stipulations, and Agreements. After consultation with their attorneys and financial advisors, and without prejudice to the rights of any Committee or other parties-in-interest as and, subject to Section 4.1 of this Second Interim Order, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge and agree that:

(a) Prepetition Stipulations

(i) Prepetition Loan Documents. Prior to the commencement of the Chapter 11 Cases, Prepetition Agent and Prepetition Lender made loans, advances and provided other financial accommodations to Borrower and KidKraft Netherlands B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands (the “**Dutch Borrower**”), jointly and severally with respect to the Priority Revolving Loans (as defined in the Prepetition Credit Agreement), Guarantors and certain of their non-Debtor affiliates (the Dutch Borrower, together with the other non-Debtor affiliates party to the Prepetition Credit Agreement, “**Non-Debtor Loan Parties**”), pursuant to the terms and conditions set forth in (1) that certain Amended and Restated First Lien Credit Agreement dated as of April 3, 2020 (as amended, supplemented, or otherwise modified prior to the Petition Date, the “**Prepetition Credit Agreement**”); (2) that certain Amended and Restated First Lien Security Agreement as of dated April 3, 2020 by and among Borrower, the Guarantors, and the Non-Debtor Loan Parties (the Non-Debtor Loan Parties, together with the Borrower and the Guarantors, the “**Grantors**”) and Prepetition Agent, as Secured Party (as amended, supplemented, or otherwise modified prior to the Petition Date, including the *Security Agreement Supplement*, dated January 30, 2024, the “**Prepetition Security Agreement**”); and (3) all other agreements, documents and instruments executed and/or delivered with, to, or in favor of Prepetition Agent or Prepetition Lender in connection with the Prepetition Credit Agreement or the Prepetition Security Agreement, including, without limitation, all security agreements, notes, guarantees, mortgages, Uniform Commercial Code financing statements and all other related agreements, documents and instruments executed and/or delivered in connection therewith or related thereto (all of the foregoing, together with the Prepetition Credit Agreement and the Prepetition Security Agreement,

as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date, collectively, the “**Prepetition Loan Documents**”).

(ii) Prepetition Obligations. As of the Petition Date, the Borrower, Guarantors and Non-Debtor Loan Parties were indebted, jointly and severally, to Prepetition Agent and Prepetition Lender under the Prepetition Loan Documents in respect of outstanding Loans (as defined in the Prepetition Credit Agreement) in an aggregate principal amount of not less than \$144.9 million, plus all other Obligations (as defined in the Prepetition Credit Agreement), plus interest accrued and accruing thereon, together with all costs, fees, expenses (including attorneys’ fees and legal expenses) and other charges accrued, accruing or chargeable with respect thereto (collectively, the “**Prepetition Obligations**”). The Prepetition Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Borrower, Guarantors, and the Non-Debtor Loan Parties and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and the Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, cause of action, counterclaim, setoff or defense of any kind, nature or description, in any such case, arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Second Interim Order, which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Obligations or liens and security interest securing the same described in clause (F)(a)(iii) below, including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non- bankruptcy law. The Debtors and their estates (a) have no claims, objections, challenges, causes of action, and/or choses

in action, including without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against Prepetition Agent or Prepetition Lender or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Loan Documents or Prepetition Obligations; and (b) have waived, discharged, and released any right to challenge any of the Prepetition Obligations, including the priority of the Prepetition Obligations, and the validity, extent, and priority of the liens securing the Prepetition Obligations.

(iii) Prepetition Collateral. As of the Petition Date, the Prepetition Obligations were fully secured pursuant to the Prepetition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens (except, in the case of perfection, for (A) Excluded Accounts and (B) commercial tort claims, letter of credit rights, certificate of title vehicles, and other assets, in each case of this clause (B), to the extent expressly excluded from the requirement to perfect liens thereon pursuant to the Prepetition Loan Documents) (the “*Prepetition Liens*”) granted by Borrower, Guarantors, and the Non-Debtor Loan Parties for fair consideration and reasonably equivalent value to DIP Agent, for the benefit of itself and DIP Lender under the Prepetition Loan Documents, in and upon all of the of the Debtors’ and Non-Debtor Loan Parties’ assets and property other than Excluded Assets, Excluded Receivables, and Consumer Goods (as each such term is defined in the Prepetition Credit Agreement) (collectively, the “*Prepetition Collateral*”), including all cash of the Debtors, wherever located, and all cash equivalents, including any cash in deposit accounts of the Debtors (other than Excluded Accounts), in each case, whether as Prepetition Collateral or which represents income, proceeds, products, rents or profits of non-cash Prepetition Collateral (collectively, the “*Cash*”

Collateral”), subject only to the liens permitted under Section 7.01 of the Prepetition Credit Agreement to the extent that such security interests, liens or encumbrances are (A) valid, perfected and non-avoidable security interests, liens or encumbrances securing valid, binding and unavoidable debt permitted under the Prepetition Loan Documents, and (B) senior to, have not been, and are not subject to being subordinated to the Prepetition Liens or otherwise avoided, and, in each instance, only for so long as and to the extent that such encumbrances are and remain senior and outstanding (hereinafter referred to as the “*Prepetition Permitted Liens*”). The Debtors do not possess and will not assert any claim, counterclaim, setoff or defense of any kind, nature or description, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 (including, without limitation, sections 510, 544, 547, 548, 549 or 550) of the Bankruptcy Code or under any other similar provisions of applicable state or federal law, that would in any way affect the validity, enforceability and non-avoidability of any of Prepetition Agent’s and Prepetition Lender’s liens, claims or security interests in the Prepetition Collateral.

(iv) Default by the Debtors. The Debtors acknowledge and stipulate that one or more Events of Default (as defined in the Prepetition Credit Agreement) have occurred and are continuing as of the date hereof.

(v) Proof of Claim. The acknowledgment by the Debtors of the Prepetition Obligations and the liens, rights, priorities and protections granted to or in favor of Prepetition Agent and Prepetition Lender in respect of the Prepetition Collateral as set forth herein and in the Prepetition Loan Documents shall be deemed a timely filed proof of claim on behalf of Prepetition Agent and Prepetition Lender in these Chapter 11 Cases.

(vi) Indemnity. The DIP Agent, DIP Lender, and Prepetition Secured Parties have acted in good faith, without negligence or violation of public policy or law, in respect of all actions taken by them in connection with or related in any way to negotiating, implementing, or obtaining the requisite approvals of the DIP Facility and the use of Cash Collateral, including in respect of granting DIP Liens, any challenges or objections to the DIP Facility or the use of Cash Collateral, and all documents related to any and all transactions contemplated by the foregoing. Accordingly, each of the Prepetition Secured Parties and the DIP Secured Parties shall be and hereby are indemnified and held harmless by the Debtors in respect of any claim or liability incurred in respect thereof of in any way related thereto, provided that no such parties will be indemnified for any cost, expense, or liability to the extent determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such parties' bad faith, gross negligence, fraud, or willful misconduct. No exception or defense exists in contract, law, or equity to the Debtors' obligation under this paragraph to indemnify and/or hold harmless each of the Prepetition Secured Parties and the DIP Secured Parties. The Court retains exclusive jurisdiction to determine amounts of any indemnification claims arising from the DIP Documents unless such amounts are *de minimis*.

(vii) Release. Each Debtor, on behalf of itself and its successors and assigns, and their respective agents, officers, directors, employees, attorneys, professionals, predecessors, successors, and assigns (collectively, the "**Releasers**"), hereby forever, unconditionally, permanently, and irrevocably release, discharge, and acquit each of the Prepetition Agent and Prepetition Lender and each of their respective successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives (collectively, the "**Prepetition Releasees**") of and from any

and all claims, demands, liabilities, damages, expenses, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every kind, nature and description, whether arising in law or otherwise, and whether known or unknown, matured, or contingent that any of the Releasors had, have or hereafter can or may have against any Prepetition Releasees as of the date hereof, in respect of events that occurred on or prior to the date hereof with respect to the Debtors, the Prepetition Obligations, the Prepetition Loan Documents, the DIP Obligations, the RSA, the Plan, the Backyard Sale, the DIP Documents and any DIP Loans or other financial accommodations made by DIP Agent and/or DIP Lender to the Debtors pursuant to the Prepetition Loan Documents or the DIP Documents including, without limitation, (a) any so-called “lender liability” or equitable subordination claims or defenses, (b) any and all “claims” (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims, set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether arising at law or in equity, including any recharacterization, recoupment, subordination, avoidance, or other claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law, including, without limitation, any right to assert any disgorgement or recovery, in each case, with respect to the extent, amount, validity, enforceability, priority, security, and perfection of any of the Prepetition Obligations, the Prepetition Loan Documents, or the Prepetition Liens.

(viii) Non-Debtor Loan Parties. The Dutch Borrower and the Borrower are jointly and severally liable with respect to the Priority Revolving Loans (as defined in the Prepetition Credit Agreement) and each of the other Non-Debtor Loan Parties and the Debtors are jointly and severally liable with respect to the Prepetition Obligations.

H. Findings Regarding the DIP Financing.

(i) DIP Financing. The Debtors have requested from the DIP Secured Parties, and the DIP Secured Parties are willing, to extend certain loans, advances and other financial accommodations on the terms and conditions set forth in this Second Interim Order, the DIP Term Sheet and the other DIP Documents, respectively.

(ii) Need for DIP Financing. The Debtors do not have sufficient available sources of working capital, including Cash Collateral, to operate their businesses in the ordinary course of business without the financing requested in the Motion. The Debtors' ability to pay their vendors, suppliers, and employees, and to otherwise fund their operations is essential to the preservation and maintenance of the going concern value of each Debtor and consummation of the Backyard Sale and the Plan. Accordingly, the Debtors have an immediate need to enter into the DIP Facility in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy estates (as defined under § 541 of the Bankruptcy Code, the "*Estates*") in order to maximize the value of the Estates.

(iii) No Credit Available on More Favorable Terms. The Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under §§ 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code or in exchange for the grant of a superpriority administrative expense, junior liens on encumbered property of the Estates, or liens on property of the Estates not subject to a lien pursuant to § 364(c)(1), 364(c)(2) or 364(c)(3) of the Bankruptcy Code. The Debtors have been unable to procure the necessary financing on terms more favorable, taken as a whole, than the DIP Facility. In light of the foregoing, and considering all alternatives, the Debtors have reasonably and properly concluded, in the exercise of their sound

business judgment, the DIP Facility represents the best financing available to the Debtors at this time, and are in the best interests of the Debtors, their respective Estates, and all of their stakeholders.

(iv) Initial Budget. The Debtors have prepared and delivered to DIP Agent and DIP Lender an initial nine-week budget (the “*Initial Budget*” and each subsequent approved budget pursuant to section 1.8 hereof, an “*Approved Budget*”) reflecting the Debtors’ anticipated cash receipts and anticipated disbursements for each calendar week for the covered periods, a summary of which is attached hereto as Exhibit B and which was previously attached in Exhibit A of the First Interim Order. The Initial Budget was prepared by the Debtors, with the assistance of their professional advisors and management, and the Debtors represent that the Initial Budget is achievable in accordance with the terms of the DIP Documents and the Interim Orders. DIP Agent and DIP Lender are relying upon the Debtors’ compliance with the Interim Budget in accordance with the Interim Orders in determining to enter into the DIP Facility.

(v) Business Judgment and Good Faith Pursuant to § 364(e). The terms of the DIP Documents and this Second Interim Order are fair, just and reasonable under the circumstances, ordinary and appropriate for secured financing to debtors-in-possession, reflect the Debtors’ exercise of their prudent business judgment consistent with their fiduciary duties, and supported by reasonably equivalent value and fair consideration. The terms and conditions of the DIP Documents and the Interim Orders have been negotiated in good faith and at arms’ length by and among the Debtors and DIP Agent, with all parties being represented by competent counsel. Any credit extended under the terms of the Interim Orders shall be deemed to have been extended in “good faith” by DIP Agent and DIP Lender, as that term is used in section 364(e) of the Bankruptcy Code and the DIP Obligations, the DIP Liens, and the DIP Superpriority Claim are

entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that either of the Interim Orders or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

(vi) Credit Bid Rights. To the fullest extent permitted by section 363(k) of the Bankruptcy Code, in connection with any sale or other disposition of the DIP Collateral or Prepetition Collateral (as applicable) including any sales occurring under or pursuant to section 363 of the Bankruptcy Code, a plan of reorganization or plan of liquidation under section 1129 of the Bankruptcy Code, or a sale or disposition by a chapter 7 trustee for any of the Debtors under section 725 of the Bankruptcy Code (any of the foregoing sales or dispositions, a “*Sale*”), (a) DIP Agent (on behalf of their respective DIP Secured Parties) shall have the right to credit bid, in accordance with the DIP Documents, up to the full amount of the DIP Obligations, (b) the Prepetition Agent (on behalf of and at the written direction of the Prepetition Secured Parties) shall have the right to credit bid, in accordance with the Prepetition Loan Documents, up to the full amount of the Prepetition Obligations, (c) DIP Agent and Prepetition Agent shall have the absolute right (at the direction of their respective Secured Parties) to assign, transfer, sell or otherwise dispose of its rights to credit bid in connection with the assignment, transfer, sale, or disposition of the corresponding DIP Obligations, except as may be set forth in the DIP Documents, and Prepetition Obligations, respectively, and (d) each of the Debtors hereby acknowledge and agree that they shall not object, or support any objection, to or limit, or support any limitation on, any other such DIP Secured Parties’ or Prepetition Secured Parties’ rights to credit bid, as applicable, up to the full amount of the DIP Obligations and Prepetition Obligations, respectively.

(vii) Sections 506(c) and 552(b) Waivers. Subject to entry of a Final Order, as material inducement to (a) the DIP Secured Parties’ agreement to provide the DIP Facility and the

Prepetition Secured Parties' consent to the use of Cash Collateral in accordance with the Approved Budget, (b) the DIP Secured Parties' agreement to subordinate the DIP Liens and the DIP Superpriority Claim to the Carve-Out, and (c) the Prepetition Secured Parties' agreement to subordinate the Prepetition Liens, Prepetition Replacement Lien and the Prepetition Adequate Protection Superpriority Claim to the Carve-Out, the DIP Liens, and the DIP Superpriority Claim, subject to entry of the Final Order (retroactive to the Petition Date), each of the DIP Secured Parties and the Prepetition Secured Parties are entitled to receive (1) a waiver of any equities of the case exceptions or claims under section 552(b) of the Bankruptcy Code and a waiver of unjust enrichment and similar equitable relief as set forth below, and (2) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(viii) Good Cause. The relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors, their creditors and their Estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses and ongoing operations in anticipation of the consummation of the Backyard Sale and Plan, (2) preserve and maximize the value of the Estates for the benefit of all the Debtors' creditors, and (3) avoid immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

(ix) Adequate Protection. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363, and 364 of the Bankruptcy Code, to receive adequate protection to the extent of any Diminution in Value of their respective interests in the Prepetition Collateral (including Cash Collateral), to the extent set forth in the Interim Orders.

(x) Immediate Entry. Sufficient cause exists for immediate entry of this Second Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in the Chapter 11

Cases has filed or made an objection to the entry of this Second Interim Order, or any objections that were made (to the extent such objections have not been withdrawn, waived, resolved, or settled) are hereby overruled. Based upon the foregoing, and after due consideration and good cause appearing therefor.

IT IS HEREBY ORDERED THAT:

Section 1. Authorization and Conditions to Financing.

1.1 Motion Granted. The Motion is granted in accordance with Bankruptcy Rule 4001(c)(2) to the extent provided in this Second Interim Order. Except as otherwise expressly provided in this Second Interim Order, any objection to the entry of this Second Interim Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits.

1.2 Authorization to Borrow, Guaranty, and Use Loan Proceeds. Borrower is hereby authorized and empowered to immediately borrow and obtain DIP Loans and to incur indebtedness and other Obligations (as defined in the DIP Term Sheet) (collectively referred to as the “*DIP Obligations*”), and the Guarantors are hereby authorized to guarantee such DIP Obligations, all pursuant to the terms and conditions of the Interim Orders, the DIP Term Sheet, and the other DIP Documents, during the period commencing on the date of entry of the First Interim Order through and including the entry of the Final Order, up to an aggregate amount equal to the Interim DIP Commitment, plus, subject to entry of the Final Order, the Roll-Up Amount. Subject to the terms and conditions contained in the Interim Orders and the DIP Documents, the Debtors shall use the proceeds of the DIP Loans and other credit and financial accommodations provided by DIP Agent and DIP Lender under the DIP Term Sheet and the other DIP Documents solely for payment of expenses set forth in the Approved Budget and all interest, costs, fees, amounts, and other obligations owing to the DIP Secured Parties in accordance with the terms and conditions of the DIP Documents and this Second Interim Order.

1.3 Financing Documents

(a) Authorization. The Debtors are hereby authorized to enter into, execute, deliver, perform, and comply with all of the terms, conditions and covenants of the DIP Term Sheet and the other DIP Documents; provided that any additional DIP Documents entered into following entry of the First Interim Order shall be filed on the docket of these Chapter 11 Cases, and parties in interest shall have seven (7) days to object to such additional DIP Documents. If no objection to such additional DIP Documents is filed within such seven (7) days, unless the Court rules otherwise, such DIP Documents shall be deemed approved by this Court. If any objection is filed within such seven (7) day period, the Court shall hold an emergency hearing to consider approval of such DIP Document. Upon execution and delivery of the DIP Term Sheet and the other DIP Documents, such agreements and documents shall constitute valid and binding obligations of the Debtors, enforceable against each Debtor party thereto in accordance with the terms of such agreements, documents and the Interim Orders (as applicable). No obligation, payment, transfer or grant of security arising under the DIP Term Sheet, the other DIP Documents or the Interim Orders shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under § 502(d) of the Bankruptcy Code), or be subject to any defense, reduction, setoff, recoupment or counterclaim. The Debtors are hereby authorized and directed to pay, in accordance with the Interim Orders, the principal, interest, fees, expenses and other amounts described in the DIP Documents as such become due and without need to obtain further Court approval, including, without limitation, monitoring fees, agency fees, alternate transaction fees, closing fees, unused facility fees, continuing commitment fees, backstop fees, exit fees, servicing fees, yield maintenance premiums, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees, the reasonable and documented

fees and disbursements of the DIP Secured Parties' attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in the Interim Orders or the DIP Documents. Upon execution and delivery, the DIP Term Sheet and other DIP Documents shall represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their Estates in accordance with their terms.

(b) Approval; Evidence of Borrowing Arrangements. All terms, conditions and covenants set forth in the DIP Documents (including, without limitation, the DIP Term Sheet) are approved to the extent necessary to implement the terms and provisions of the Interim Orders. All such terms, conditions and covenants shall be sufficient and conclusive evidence of (a) the borrowing arrangements by and among the Debtors, DIP Agent and DIP Lender, and (b) each Debtor's assumption and adoption of all of the terms, conditions, and covenants of the DIP Term Sheet and the other DIP Documents for all purposes, including, without limitation, to the extent applicable, the payment of all DIP Obligations arising thereunder, including, without limitation, all principal, interest, fees and other expenses, including, without limitation, all of DIP Agent's and DIP Lender's consultant fees, professional fees, attorney fees and legal expenses, as more fully set forth in the DIP Documents.

(c) Amendment. Subject to the terms and conditions of the DIP Term Sheet and the other DIP Documents, Debtors and DIP Agent may amend, modify, supplement or waive any provision of the DIP Documents (a "***DIP Amendment***") without further approval or order of the Court, so long as (a) such DIP Amendment is not materially burdensome on the Debtors or their Estates, and is undertaken in good faith by DIP Agent, DIP Lender and the

Debtors; (b) the Debtors provide prior written notice of the DIP Amendment (the “*DIP Amendment Notice*”) to the U.S. Trustee and counsel to any Committee, or in the event no such Committee is appointed at the time of such DIP Amendment, the 30 Largest Unsecured Creditors, and (c) the Debtors file the DIP Amendment Notice with the Court; provided, however, that neither consent of the parties notified pursuant to section (b) hereof nor approval of the Court will be necessary to effectuate any such amendment, modification or supplement. Any material DIP Amendment to the DIP Documents must be approved by the Court to be effective.

1.4 Payment of Prepetition Debt. Subject to entry of the Final Order, the Debtors are authorized to repay all Prepetition Obligations in accordance with the DIP Term Sheet, the other DIP Documents and the Interim Orders, including, without limitation, Sections 1.5 and 1.6 of this Second Interim Order.

1.5 Payments and Application of Payments & DIP Collateral Proceeds; Roll-Up. The Debtors are authorized and directed to make all payments and transfers of Estate property to DIP Agent as provided for, permitted and/or required under the DIP Term Sheet and the other DIP Documents, which payments and transfers shall not be avoidable or recoverable from DIP Agent or DIP Lender under §§ 547, 548, 550, 553 or any other section of the Bankruptcy Code, or by reason of any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law or otherwise. All proceeds of the DIP Collateral (as defined herein) received by DIP Agent or DIP Lender, and any other amounts or payments received by DIP Agent or DIP Lender in respect of the DIP Obligations, may be applied or deemed to be applied by DIP Agent, in its discretion, first, to the indefeasible repayment of the DIP Obligations, and then to the indefeasible repayment in full of the Prepetition Obligations, all in accordance with the DIP Term Sheet, the other DIP Documents and the Interim Orders. Without limiting the

generality of the foregoing, the Debtors are authorized without further order of the Court to pay or reimburse DIP Agent and DIP Lender for future costs and expenses, including, without limitation, all professional fees, consultant fees and legal fees and expenses paid or incurred by DIP Agent or DIP Lender in connection with the financing transactions as provided in the Interim Orders and the DIP Documents, all of which shall be and are included as part of the principal amount of the DIP Obligations and secured by the DIP Collateral.

1.6 Continuation of Prepetition Procedures. Except to the extent expressly set forth in the DIP Documents, all prepetition practices and procedures for the payment and collection of proceeds of the Prepetition Collateral (as defined herein), the turnover of cash, the delivery of property to Prepetition Agent and Prepetition Lender, and any blocked depository bank account arrangements, are hereby approved and shall continue without interruption after the commencement of the Chapter 11 Cases.

1.7 Indemnification. Subject to entry of the Final Order, the Debtors are authorized to indemnify and hold harmless each of the Prepetition Secured Parties and DIP Secured Parties, each of their respective successors, assigns, affiliates, parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders and employees, past, present, and future, and their respective heirs, predecessors, successors and assigns in accordance with, and subject to the terms of, the DIP Documents, which indemnification is hereby authorized and approved. The Court retains exclusive jurisdiction to determine amounts of any indemnification claims arising from the DIP Documents unless such amounts are *de minimis*.

1.8 Approved Budget; Permitted Variances; Debtor Professional Reports.

(a) The Debtors shall use Cash Collateral and the proceeds of the DIP Facility solely in accordance with the Approved Budget and the DIP Documents. Commencing on the Monday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time) and continuing on the two (2)-week anniversary thereafter (or such other times as the Debtors may elect with the consent of DIP Lender and Backyard Products, LLP (the “*Purchaser*”)), the Debtors shall deliver to DIP Agent, and the United States Trustee an updated budget with the form and level of detail set forth in the Initial Budget, and shall include, weekly basis cash revenues, receipts, expenses, professional fees and other disbursements (including, without limitation, any payments with respect to real property leases), net cash flows, inventory receipts and other items on a line item basis (including all necessary and required expenses that the Debtors expect to incur and anticipated uses of proceeds of draws under the DIP Facilities). If such budget is in form and substance satisfactory to DIP Agent in its sole discretion and consented to by the Purchaser (such consent not to be unreasonably withheld, conditioned, or delayed, other than line items of the budget pertaining to the Reimbursement Amounts (as defined in the APA) or which impact the Purchase Price (as defined in the APA), for which such consent shall be in the discretion of the Purchaser), it shall constitute the “Approved Budget” for purposes of the Interim Orders. Any amendments, supplements or modifications to the Approved Budget shall be subject to the prior written approval of DIP Lender in its sole discretion and the prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned, or delayed, other than line items of the budget pertaining to the Reimbursement Amounts or which impact the Purchase Price, for which such consent shall be in the discretion of the Purchaser), prior to the implementation thereof. Notwithstanding anything to the contrary herein, Purchaser shall not have any consent rights with

respect to the Approved Budget following any breach by Purchaser of the APA or termination of the APA.

(b) Commencing on the Wednesday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time), and on a weekly basis thereafter (or at such other times as the Debtors may elect with the consent of DIP Lender) the Debtors shall deliver to DIP Lender a variance report in form and substance reasonably acceptable to DIP Lender (an “**Approved Variance Report**”) showing comparisons of actual results for each line item against such line item in the Approved Budget. Thereafter, the Debtors shall deliver to DIP Lender, an Approved Variance Report on a weekly basis for (a) the preceding week, and (b) the trailing four (4) week period (or, if fewer than four (4) weeks have lapsed since the Petition Date, then for the trailing one, two or three week period, as applicable). Any amendments, supplements or modifications to an Approved Variance Report shall be subject to the prior written approval of DIP Lender in its sole discretion.

(c) Each Approved Variance Report shall indicate whether there are any adverse variances that exceed any of the Permitted Variances. “**Permitted Variances**” shall mean variances: (a) up to 15% of the aggregate for all cash disbursements line-items in the Approved Budget (other than fees and expenses of counsel to the DIP Secured Parties and Professional Persons), (b) less than 20% of the aggregate for all cash receipts in the Approved Budget, and (c) up to 15% of all fees and expenses incurred on a per-Professional Person basis (the “**Professional Fee Variance**”), in each case calculated weekly on a rolling four (4) week basis commencing as of the Petition Date, with the first such testing of (a) and (b) to begin three (3) weeks from the Petition Date, and the Professional Fee Variance testing set forth in (c) shall be performed weekly beginning the week following the Petition Date and not on a rolling four (4) week basis.

(d) If any Professional Person exceeds the Professional Fee Variance, such Professional Person will make a representative available to meet and confer with DIP Lender as soon as practicable and no later than two (2) Business Days after delivery of such Approved Variance Report, to discuss a good faith modification to the Approved Budget (the “**Meet and Confer**”). If DIP Lender and such Professional Person cannot mutually agree on a modification following the Meet and Confer, DIP Lender may, in its sole discretion, declare an Event of Default, consistent with the provisions herein.

(e) Commencing on the Monday of the first full calendar week after the Petition Date and continuing weekly thereafter, each Debtor Professional shall submit a report of the prior week’s accrued fees and expenses to the DIP Agent (the “**Debtor Professional Report**”). The DIP Agent shall review the Debtor Professional Reports, may test the accrued fees and expenses in the Debtor Professional Report against the Professional Fee Variance, and must submit a written objection (if any) to the applicable Debtor Professional no later than two (2) Business Days following delivery of the Debtor Professional Report (the “**Review Period**”). If the DIP Agent does not submit a written objection at the close of the Review Period, the Debtors shall fund the full amount of accrued fees and expenses in such Debtor Professional Report into the Funded Reserve Account. If the DIP Agent submits a written objection to the Debtor Professional Report prior to the end of the Review Period, the DIP Agent and the applicable Debtor Professional shall conduct a Meet and Confer within two (2) Business Days. At the conclusion of the Meet and Confer, if the DIP Agent elects to declare an Event of Default, the Debtors shall only fund an amount not to exceed 150% of such Debtor Professional’s budgeted amount as set forth in the Approved Budget for the period covered by such Debtor Professional Report. For the avoidance of doubt, any Event of Default or other action taken by the DIP Agent shall not impact any amounts

previously funded in the Funded Reserve Account in compliance with the procedures herein. For the avoidance of doubt, the DIP Agent's request for a Meet and Confer shall not (in and of itself absent an Event of Default declaration) impact any terms of the DIP Documents, including any subsequent reporting and testing as set forth herein, nor the DIP Secured Parties' obligations to loan and the Debtors' obligations to fund the Funded Reserve Account in accordance with the DIP Documents after a Meet and Confer is requested.

Section 2. DIP Liens; Superpriority Administrative Claim Status.

2.1 DIP Liens.

(a) Granting of DIP Liens. To secure the prompt payment and performance of any and all DIP Obligations of the Debtors to DIP Agent and DIP Lender of whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, DIP Agent, for the benefit of itself and DIP Lender, shall have and is hereby granted, effective as of the Petition Date, valid and perfected first-priority security interests and liens, superior to all other liens, claims or security interests that any creditor of any of the Estates may have (subject only to the Carve-Out and the Permitted Liens), in and upon all assets and property (whether tangible, intangible, real, personal or mixed), wherever located, whether now owned or owing to, or hereafter acquired by, or arising in favor of each Debtor and its respective chapter 11 estate, and any and all proceeds therefrom, including, without limiting the generality of the foregoing, all cash, Cash Collateral, accounts, accounts receivable, inventory, property, plant and equipment, real estate, leaseholds, equity interests, intellectual property, and upon entry of the Final Order, the proceeds of any avoidance actions under chapter 5 of the Bankruptcy Code (all of the foregoing collectively, the "*DIP Collateral*"). The DIP Collateral shall also include any rents, issues, products, proceeds, and profits generated by any item of DIP Collateral, without the necessity of

any further action of any kind or nature by DIP Agent to claim or perfect such rents, issues, products, or proceeds.

(b) Priority of DIP Liens. The liens and security interests of DIP Agent and DIP Lender granted under the DIP Documents and the Interim Orders on the DIP Collateral securing all DIP Obligations shall be first and senior in priority to all other interests and liens of every kind, nature and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or interests granted in favor of third parties in conjunction with §§ 363, 364 or any other section of the Bankruptcy Code or other applicable law; provided, however, that DIP Agent's and DIP Lender's liens on and security interests in the DIP Collateral shall be subject only to (a) such priming liens or interests imposed by applicable non-bankruptcy law that are in existence as of the Petition Date, and are otherwise unavoidable (collectively, "*Permitted Liens*") and (b) the Carve-Out. The right of a seller of goods to reclaim any goods whether under section 546(c) of the Bankruptcy Code or otherwise shall not be a Permitted Lien or Prepetition Lien; rather, any such alleged claim arising or asserted as a right of reclamation shall have the same rights and priority with respect to the DIP Liens, Prepetition Liens and Prepetition Payment Liens, as such claims had with respect to the Prepetition Liens.

(c) Right of Repayment. The right of DIP Agent and DIP Lender to repayment in accordance with the DIP Documents and the Interim Orders from the sale or other disposition of the DIP Collateral, or any proceeds thereof, shall be first and senior in priority to all other rights of repayment of every kind, nature, and description (other than the Carve-Out).

(d) Perfection of DIP Liens and Prepetition Replacement Lien. The Interim Orders shall be sufficient and conclusive evidence of the priority, perfection and validity of all liens and security interests granted herein, including the DIP Liens and the Prepetition

Replacement Lien, which shall be effective as of the Petition Date, without any further act and without regard to any other federal, state or local requirements or law requiring notice, filing, registration, recording or possession of the DIP Collateral, or other act to validate or perfect such security interest or lien, including without limitation control agreements with any deposit bank or with any other financial institution(s) holding a depository account or other account consisting of or containing Collateral (a "***Perfection Act***"). Notwithstanding the foregoing, if DIP Agent or Prepetition Agent, as applicable, shall, in its sole discretion, elect for any reason to file, record or otherwise effectuate any Perfection Act, then such DIP Agent or Prepetition Agent is authorized to perform such act, and the Debtors and Guarantors are authorized to perform such act to the extent necessary or required by the DIP Documents, which act or acts shall be deemed to have been accomplished as of the date and time of entry of the applicable Interim Orders notwithstanding the date and time actually accomplished, and in such event, the subject filing or recording office is authorized to accept, file or record any document in regard to such act in accordance with applicable law. DIP Agent or Prepetition Agent, as applicable, may choose to file, record or present a certified copy of the applicable Interim Orders in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file or record such certified copy of this Second Interim Order in accordance with applicable law. Should DIP Agent or Prepetition Agent, as applicable, so choose and attempt to file, record or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive or alter the validity, enforceability, attachment, or perfection of the DIP liens and security interests granted herein by virtue of the entry of the Interim Orders.

(e) Nullifying Prepetition Restrictions to DIP Financing.

Notwithstanding anything contained in any prepetition agreement, contract, lease, document, note or instrument to which any Debtor is a party or under which any Debtor is obligated, except as otherwise permitted under the DIP Documents, any provision that restricts, limits or impairs in any way any Debtor from granting DIP Agent security interests in or liens upon any of the Debtors' assets or properties (including, among other things, any anti-lien granting or anti-assignment clauses in any leases or other contractual arrangements to which any Debtor is a party) under the DIP Documents or the Interim Orders, as applicable, or otherwise entering into and complying with all of the terms, conditions and provisions hereof or of the DIP Documents, shall not (a) be effective and/or enforceable against any of the Debtors, DIP Agent or DIP Lender, as applicable, or (b) adversely affect the validity, priority or enforceability of the liens, security interests, claims, rights, priorities and/or protections granted to DIP Agent and DIP Lender pursuant to the Interim Orders or the DIP Documents, in each case, to the maximum extent permitted under the Bankruptcy Code and other applicable law.

(f) To the extent that any applicable non-bankruptcy law otherwise would restrict the granting, scope, enforceability, attachment, or perfection of any liens and security interests granted and created by the Interim Orders (including the DIP Liens and the Prepetition Replacement Liens) or otherwise would impose filing or registration requirements with respect to such liens and security interests, such law is hereby pre-empted to the maximum extent permitted by the Bankruptcy Code, applicable federal or foreign law, and the judicial power and authority of the Court. By virtue of the terms of the Interim Orders, to the extent that any DIP Agent or Prepetition Agent, as applicable, has filed Uniform Commercial Code financing statements, mortgages, deeds of trust, or other security or perfection documents under the names

of any of the Debtors (including all Guarantors), such filings shall be deemed to properly perfect its liens and security interests granted and confirmed by the Interim Orders without further action by the applicable DIP Agent or Prepetition Agent, as applicable.

(g) Except with respect to the Carve-Out, certain Permitted Liens, the DIP Liens, the DIP Superpriority Claims, the Prepetition Replacement Liens, and the Prepetition Adequate Protection Superpriority Claims (i) shall not be made subject to or *pari passu* with (A) any lien, security interest, or claim heretofore or hereinafter granted in any of these Chapter 11 Cases or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Chapter 11 Cases against the Debtors (such converted cases, “**Successor Cases**”), their respective Estates, any trustee, or any other estate representative appointed or elected in these Chapter 11 Cases or any Successor Cases and/or upon the dismissal of any of these Chapter 11 Cases or any Successor Cases; (B) any lien that is avoided and preserved for the benefit of the Debtors and their respective Estates under section 551 of the Bankruptcy Code or otherwise; and (C) any intercompany or affiliate lien or claim; and (ii) shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code.

2.2 Superpriority Administrative Expense Claims. For all DIP Obligations now existing or hereafter arising pursuant to the Interim Orders or the DIP Documents, DIP Agent, for the benefit of itself and DIP Lender, is granted an allowed superpriority administrative claim pursuant to § 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of the Debtors (other than the Carve-Out), whether now in existence or hereafter incurred by the Debtors, and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, inter alia, §§ 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 364(c)(1), 546(c), 726, 1113 or 1114 of the

Bankruptcy Code (other than the Carve-Out), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtors and all proceeds thereof (the “*DIP Superpriority Claim*”).

2.3 Carve-Out.

(a) Carve-Out. As used in the Interim Orders, the “*Carve-Out*” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate; (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code; (iii) to the extent allowed or permitted to be paid at any time, whether by interim order, procedural order, or otherwise, all accrued and unpaid fees, disbursements, costs, and expenses (the “*Allowed Professional Fees*”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “*Debtor Professionals*”) and by the Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “*Committee Professionals*” and, together with the Debtors’ Professionals, “*Professional Persons*”) at any time before or on the first business day following delivery by DIP Agent to the Debtors of a Carve-Out Trigger Notice (as defined below), but shall not include any restructuring, sale, transaction or other “success” fee except for such fee earned by Robert W. Baird & Co. Inc. in its capacity as investment banker to the Debtors during such time; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$150,000 incurred after the first business day following delivery by DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (this section (iv) the “*Post-Carve-Out Trigger Notice Cap*”); and (v) an amount up to

the amount secured by and necessary to fund the Canadian Priority Charges (as defined in the DIP Term Sheet) for the beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings. For purposes of the foregoing, “*Carve-Out Trigger Notice*” shall mean a written notice delivered by email (or other electronic means) by DIP Agent to the Debtors and the Committee, which notice may be delivered in the sole discretion of DIP Agent following the occurrence of an Event of Default, and shall describe the Event of Default, state that the DIP Facility is terminated and that the Post-Carve-Out Trigger Notice Cap has been invoked.

(b) Pre-Carve-Out Trigger Notice Funding. Commencing on the Friday of the first full calendar week following the Petition Date and on a weekly basis thereafter, the DIP Secured Parties shall loan and the Debtors shall fund, using borrowings from the DIP Facility, Cash Collateral, or cash on hand, a segregated account (the “*Funded Reserve Account*”) held by the Debtors in trust and solely for the benefit of the Debtor Professionals in an amount equal to the amount of applicable Professional Fees set forth in the Approved Budget, subject to the objection procedures described in Section 1.8(d) hereof and the Prepetition Secured Parties’ and DIP Secured Parties’ reversionary interest in any unused amounts. The Debtors shall pay only Allowed Professional Fees from the Funded Reserve Account, and all payments of Allowed Professional Fees incurred prior to the Carve-Out Termination Date shall be paid first from such Funded Reserve Account, provided that this shall not be a limitation on payment of Allowed Professional Fees from sources other than the Funded Reserve Account in the event the Funded Reserve Account does not have sufficient funds or has not be funded as provided above.

(c) Post-Carve-Out Trigger Notice Funding. On the day on which a Carve-Out Trigger Notice is given by the DIP Agent to counsel for the Debtors and the Committee (the “*Carve-Out Termination Date*”), the Carve-Out Trigger Notice shall be deemed a draw

request and notice of borrowing hereunder and also a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund (A) the Funded Reserve Account in an amount equal to the sum of (x) the amounts set forth in paragraphs (a)(i)-(iii) above, plus (y) the total amount of unpaid Allowed Professional Fees set forth in the “Professional Fees (Escrow Account Funding)” line item of the Approved Budget for any time before or on the first business day following the Carve-Out Termination Date, to the extent not already funded in accordance with Section 2.3(b) hereof, whether such fees have become Allowed Professional Fees prior to the Carve-Out Termination Date, plus (z) the amount set forth in paragraph (a)(v) above to an account designated by the Information Officer in the CCAA Recognition Proceedings for the beneficiaries of the Canadian Priority Charges (the “**Canadian Priority Reserve Account**”); and (B) a segregated escrow account held by the Debtors in trust for the benefit of Professional Persons in an amount equal to the Post-Carve-Out Trigger Notice Cap (the “**Post-Carve-Out Trigger Notice Reserve Account**” and, together with the Funded Reserve Account and the Canadian Priority Reserve Account, the “**Carve-Out Reserve Accounts**”). Prepetition Agent’s, Prepetition Lender’s, DIP Agent’s, and DIP Lender’s, in each case to the fullest extent applicable, claims, liens and security interests in any property of the Debtors, including, without limitation, the Prepetition Collateral, the DIP Collateral, Cash Collateral, the Prepetition Adequate Protection Superpriority Claim (as defined below), the DIP Superpriority Claim, any other adequate protection or superpriority claim, and any junior pre- or post-petition lien, interest or claim in favor of any other party, shall be subordinate to the Allowed Professional Fee Claims of the Professional Persons and other beneficiaries thereof as to all funds in the Carve-Out Reserve Accounts.

(d) No Direct Obligation To Pay Allowed Professional Fees. None of the DIP Secured Parties or Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code provided that the Carve-Out Reserve Accounts shall have been fully funded from cash on hand, Cash Collateral, or proceeds of the DIP Facility. Nothing in the Interim Orders shall be construed to obligate any of the DIP Secured Parties or Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement, provided that the Carve-Out Reserve Accounts shall have been fully funded, and provided that this shall not be a limitation on payment of Allowed Professional Fees from sources other than the Carve-Out Reserve Accounts in the event the Carve-Out Reserve Accounts do not have sufficient funds or have not been funded as provided above. Notwithstanding anything herein, nothing shall require the DIP Secured Parties or Prepetition Secured Parties to provide any funding in excess of the DIP Commitment.

(e) Payment of Allowed Professional Fees Prior to the Carve-Out Termination Date. Any payment or reimbursement made prior to the occurrence of the Carve-Out Termination Date in respect of any Allowed Professional Fees shall not reduce the Carve-Out; *provided* that, upon the full funding of the Carve-Out Reserve Accounts following the Carve-Out Termination Date, the Debtors' authorization to use Cash Collateral to fund the Carve-Out Reserve Accounts shall cease, and the liens and claims of the DIP Agent and DIP Lender shall cease being subordinated to the Carve-Out, each with respect to and to the extent of the amounts so funded.

(f) Payment of Carve-Out on or After the Carve-Out Termination Date. Any payment or reimbursement made on or after the occurrence of the Carve-Out Termination Date in respect of any Allowed Professional Fees shall permanently reduce the Carve-Out on a dollar-for-dollar basis. Any funding of the Carve-Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under the Interim Orders, the DIP Documents, the Bankruptcy Code, and applicable law.

2.4 Payment of Carve-Out. Payment from the Carve-Out Reserve Accounts, whether by or on behalf of DIP Agent or DIP Lender, shall not and shall not be deemed to reduce the DIP Obligations, and shall not be deemed to subordinate any of any of DIP Agent's or DIP Lender's liens and security interests in the Prepetition Collateral, any other DIP Collateral, the Prepetition Adequate Protection Superpriority Claim, or the DIP Superpriority Claim to any junior pre- or post-petition lien, interest or claim in favor of any other party other than the Carve-Out for Professional Persons.

2.5 Excluded Professional Fees.

(a) Notwithstanding anything to the contrary in the Interim Orders, no DIP Collateral (or proceeds thereof) nor any DIP Loans or any other credit or financial accommodations provided under or in connection with the DIP Documents shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional Person in connection with any of the following:

(i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order, judgment, determination or similar relief: (A) challenging the legality, validity, priority, perfection, or enforceability of (I) the Prepetition Obligations or any Prepetition

Secured Parties' liens on and security interests in the Prepetition Collateral or (II) the DIP Obligations or any DIP Secured Parties' liens on and security interests in the DIP Collateral; (B) invalidating, setting aside, avoiding, recharacterizing or subordinating, in whole or in part, (I) the Prepetition Obligations or any Prepetition Secured Parties' liens on and security interests in the Prepetition Collateral or (II) the DIP Obligations or any DIP Secured Parties' liens on and security interests in the DIP Collateral; or (C) preventing, hindering or delaying DIP Agent's or DIP Lender's assertion or enforcement of any lien, claim, right or security interest or realization upon any DIP Collateral in accordance with the terms and conditions of the DIP Term Sheet, the DIP Documents, and the Interim Orders other than reasonable and documented fees in connection with a good faith challenge of an asserted Event of Default and related Carve-Out Trigger Notice;

(ii) a request made to this Court to use Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code) without the prior written consent of DIP Agent and Prepetition Agent;

(iii) a request made to this Court for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to section 364(c) or section 364(d) of the Bankruptcy Code or otherwise incur Indebtedness (as defined in the Prepetition Credit Agreement) without the prior written consent of DIP Agent (except to the extent permitted under the DIP Documents);

(iv) the commencement or prosecution of any action or proceeding of any claims, causes of action or defenses against any DIP Secured Party or Prepetition Secured Party or any of their respective officers, directors, employees, agents, attorneys, affiliates, successors or assigns, including, without limitation, any attempt to recover or

avoid any claim or interest or disgorge any payments under chapter 5 of the Bankruptcy Code or any applicable state law equivalents;

(v) the cost of a Committee's investigation into any claims against any Prepetition Secured Parties arising under or in connection with the Prepetition Loan Documents in excess of \$25,000 (the "*Committee Investigation Budget*"); provided that no portion of the Committee Investigation Budget may be used to seek formal discovery or commence any challenge, objection, or prosecute any such Challenge, claims or causes of actions; or

(vi) any act which has or could directly, materially and adversely modify or compromise the rights and remedies of any of the DIP Secured Parties or Prepetition Secured Parties under the Interim Orders, or which directly results in the occurrence of an Event of Default under this Second Interim Order or any DIP Documents.

2.6 Limited Use of Cash Collateral; Adequate Protection.

(a) Authorization to Use Cash Collateral. Subject to the terms and conditions of the Interim Orders, the DIP Term Sheet, the DIP Documents, and in accordance with the Approved Budget, Borrower shall be and are hereby authorized to use Cash Collateral for the period commencing on the date of the First Interim Order and terminating on the Carve-Out Termination Date, subject to the liens and security interests granted to Prepetition Agent and Prepetition Lender; provided that during the Remedies Notice Period (as defined herein) the Debtors may use Cash Collateral solely for the following amounts and expenses: (i) to fund the Carve-Out Reserve Accounts in accordance with Section 2.3 above; and (ii) to pay expenses critical to the administration of the Estates, as agreed by DIP Agent in its sole discretion. Nothing in the Interim Orders shall authorize the disposition of any assets of the Debtors or their Estates

outside the ordinary course of business, or any Debtor's use of Cash Collateral or other proceeds resulting therefrom, except as expressly permitted in the Interim Orders, the DIP Documents and in accordance with the Approved Budget.

(b) Prepetition Replacement Lien. As adequate protection for the diminution in value of their interests in the Prepetition Collateral (including Cash Collateral) on account of the Borrower's use of such Prepetition Collateral (including Cash Collateral), the imposition of the automatic stay and the subordination to the Carve-Out on a dollar-for-dollar basis (collectively, the "***Diminution in Value***"), Prepetition Agent, for the benefit of itself and Prepetition Lender, is hereby granted pursuant to §§ 361 and 363 of the Bankruptcy Code, and solely to the extent of the Diminution in Value, valid, binding, enforceable and perfected replacement liens upon and security interests in all DIP Collateral (the "***Prepetition Replacement Lien***"). The Prepetition Replacement Lien shall be junior and subordinate only to (A) the Carve-Out, (B) the Permitted Liens, and (C) the DIP Liens on the DIP Collateral to secure the DIP Obligations, and shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral.

(c) Prepetition Adequate Protection Superpriority Claim. As adequate protection for the Diminution in Value, Prepetition Agent, for the benefit of itself and Prepetition Lender, is hereby granted, solely to the extent of the Diminution in Value, an allowed superpriority administrative expense claim pursuant to sections 503(b), 507(a), and 507(b) of the Bankruptcy Code in each of the Chapter 11 Cases and any successor bankruptcy cases (the "***Prepetition Adequate Protection Superpriority Claim***"). The Prepetition Adequate Protection Superpriority Claim shall be junior only to (A) the Carve-Out, and (B) the DIP Superpriority Claim, and shall otherwise have priority over all administrative expense claims and

unsecured claims against the Debtors and their Estates now existing or hereafter arising, of any kind or nature whatsoever.

(d) Adequate Protection Payments and Protections. Upon entry of the First Interim Order, as further adequate protection (the “*Adequate Protection Payments*”) for the Diminution in Value, the Debtors are authorized and directed to provide adequate protection to the Prepetition Secured Parties in the form of payment in cash (regardless of the Approved Budget, and regardless of any Diminution in Value) for (i) the reasonable, documented fees, expenses, and disbursements (including without limitation, the reasonable and documented fees, expenses, and disbursements of counsel and third-party consultants and other vendors, including without limitation, financial advisors and auditors) incurred by Prepetition Secured Parties arising prior to the Petition Date, and (ii) the reasonable, documented fees, expenses, and disbursements (including without limitation, the fees, expenses, and disbursements of counsel and third-party consultants and other vendors, including without limitation, financial advisors and auditors) incurred by Prepetition Secured Parties arising subsequent to the Petition Date.

Section 3. Default; Rights and Remedies; Relief from Stay.

3.1 Events of Default. The occurrence of any of the following events shall constitute an “*Event of Default*” under the Interim Orders: (a) any Debtor’s failure to perform, in any respect, any of their obligations under the Interim Orders; or (b) the occurrence of an “Event of Default” under the DIP Term Sheet or any of the other DIP Documents, including the following:

- (a) after the first applicable testing date, the occurrence of any deviation from the Approved Budget that is greater than the Permitted Variances; *provided, that*, the DIP Lender may only declare an Event of Default arising from any deviation from the Professional Fee Variance if the DIP Lender and such Professional Person cannot mutually agree to a good faith modification during the Meet and Confer;
- (b) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents, DIP Orders, the Canadian DIP Recognitions Orders or Approved Budget;

- (c) modification by the Debtors of the DIP Secured Parties' rights under the DIP Documents, DIP Orders or the Canadian DIP Recognition Orders;
- (d) failure of any of the Chapter 11 Milestones to be satisfied;
- (e) failure by any Debtor to be in compliance in all material respects with the sections of the DIP Term Sheet entitled "Affirmative Consents" (and five (5) business days shall have elapsed since the DIP Lender shall have given notice to the Debtors of such failure) and "Negative Covenants" or failure to otherwise be in compliance in all material respects with any other provision of the DIP Term Sheet, the DIP Orders and the Canadian DIP Recognition Orders;
- (f) failure of any representation or warranty to be true and correct in all material respects;
- (g) filing of any application by the Debtors for the approval of (or an order is entered by the Court approving) any claim arising under section 507(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or any security, mortgage, collateral interest or other lien in any of the Chapter 11 Cases or CCAA Recognition Proceedings which is *pari passu* with or senior to the DIP Superpriority Claims or the DIP Liens, excluding liens arising under the DIP Orders or the Canadian DIP Recognition Orders, or pursuant to any other financing agreement made with the prior written consent of the DIP Agent;
- (h) the filing of any applications by the Debtors for approval of (or an order is entered by the Court authorizing) compensation or other amounts under any employee or executive incentive or retention plans (or any similar sort of retention or incentive program) without the prior written consent of the DIP Secured Parties in their sole discretion;
- (i) any request made by the Debtors for, or the reversal, modification, amendment, stay, reconsideration or vacatur of the DIP Orders, as entered by the Bankruptcy Court or the Canadian DIP Recognition Orders, as entered by the CCAA Court, as applicable, without the prior written consent of the DIP Secured Parties;
- (j) the commencement of any action by the Debtors or other authorized person (other than an action permitted by the DIP orders or the Canadian DIP Recognition Orders) against any of the DIP Secured Parties or its agents and employees, to subordinate or avoid any liens made in connection with the DIP orders or the Canadian DIP Recognition Orders;
- (k) (1) the assertion by the Debtors in any pleading filed in any court that any material provision of the DIP Orders, the Canadian DIP Recognition Orders or the DIP Term Sheet is not valid and binding, or (2) any material provision of the DIP Orders, the Canadian DIP Recognition Orders or this Term Sheet shall for any reason, or any other order of this Court approving the Debtors' use of Cash Collateral, cease to be valid and binding (without the prior written consent of the DIP Secured Parties);
- (l) the filing with the Bankruptcy Court of any plan of reorganization or liquidation in any of the Chapter 11 Cases other than the Plan;

- (m) the appointment or entry in any of the Chapter 11 Cases of a trustee, receiver, examiner, or responsible officer with enlarged powers relating to the operation of business of any Debtor (powers beyond those set forth in sections 1106(a)(3) and (a)(4) of the Bankruptcy Code), unless such appointment or order has not been reversed, stayed, or vacated within thirty (30) days after the entry of such order;
- (n) the granting of relief from the automatic stay by the Bankruptcy Court or of the stay ordered by the CCAA Court to any other creditor or party in interest in the Chapter 11 Cases with respect to any portion of the DIP Collateral exceeding \$100,000 in value in the aggregate;
- (o) failure to pay principal, interest or other DIP Obligations in full in cash when due, including, without limitation, on the Maturity Date;
- (p) the allowance of any claim or claims under sections 506(c) and 552(b) against or with respect to any DIP Collateral;
- (q) withdrawal or material modification by the Debtors of any motion in connection with the Backyard Sale, without the consent of the DIP Secured Parties;
- (r) the Debtors seek to consummate an Alternative Transaction (as defined in the APA) without the prior written consent of the DIP Secured Parties;
- (s) the Plan is not confirmed or is changed without the DIP Secured Parties' consent, or the Plan Sponsor breaches (or is anticipated to breach) its obligations under the Plan;
- (t) the occurrence of any Material Adverse Change;
- (u) any termination of the RSA or APA;
- (v) the amount of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims (each as defined in the Plan) exceeds or is expected to exceed the Administrative Expense Claim, Priority Tax Claim, or Other Priority Claim Backstop Amount;
- (w) the occurrence of any Negative Purchase Variance under any Purchase Price Calculation; and
- (x) the conversion of any Chapter 11 Case to a Chapter 7 case(s), or any Debtor shall file a motion or other pleading seeking the conversion of any Chapter 11 Case to chapter 7 of the Bankruptcy Code or the making of an assignment bankruptcy by or entry by any Canadian Court of a bankruptcy order in respect of the Debtors under the BIA, or the entry of an order of any Canadian court appointing a receiver under the BIA over any DIP Collateral, in each case, without the prior written consent of DIP Agent.⁴

⁴ Capitalized terms used but not otherwise defined in Section 3.1(a)–(x) shall have the meanings set forth in the DIP Term Sheet. For the avoidance of doubt, “*DIP Orders*” shall include the Interim Orders and the Final Order.

3.2 Rights and Remedies upon Event of Default. Upon the occurrence of an Event of Default, (a) the Debtors shall be bound by all restrictions, prohibitions and other terms as provided in the Interim Orders, the DIP Term Sheet and the other DIP Documents, and (b) DIP Agent shall be entitled to take any act or exercise any right or remedy (subject to Section 3.4 below) as provided in the Interim Orders or the DIP Term Sheet or any of the other DIP Documents, as applicable, including, without limitation, declaring all DIP Obligations immediately due and payable, accelerating the DIP Obligations, ceasing to extend DIP Loans, setting off any DIP Obligations with DIP Collateral or proceeds in DIP Agent's or DIP Lender's possession, and enforcing any and all rights with respect to the DIP Collateral. DIP Agent and DIP Lender shall have no obligation to lend or advance any additional funds to or on behalf of the Debtors, or provide any other financial accommodations to the Debtors, immediately upon or after the occurrence of an Event of Default or upon the occurrence of any act, event, or condition that, with the giving of notice or the passage of time, or both, would constitute an Event of Default.

3.3 Expiration of Loan Commitment. Upon the expiration, termination, or maturity of Borrower's authority to borrow or otherwise obtain other credit accommodations from DIP Agent and DIP Lender pursuant to the terms of the Interim Orders and the DIP Documents (except if such authority shall be extended with the prior written consent of DIP Agent, which consent shall not be implied or construed from any action, inaction or acquiescence by DIP Agent or DIP Lender), unless an Event of Default set forth in Section 3.1 above occurs sooner and the automatic stay has been lifted or modified pursuant to Section 3.4 of the Interim Orders, all of the DIP Obligations shall immediately become due and payable and DIP Agent and DIP Lender shall have no obligation whatsoever to make or extend any loans, advances, provide any financial or credit accommodations to the Debtors or permit the use of Cash Collateral.

3.4 Modification of Automatic Stay; Remedies Notice Period.

(a) The automatic stay provisions of section 362 of the Bankruptcy Code and any other restriction imposed by an order of the Court or applicable law are hereby modified without further notice, application or order of the Court to the extent necessary to permit DIP Agent and DIP Lender to perform any act authorized or permitted under or by virtue of the Interim Orders or the DIP Documents, as applicable, including, without limitation, (I)(A) to implement the DIP financing arrangements authorized by this Second Interim Order and pursuant to the terms of the DIP Documents, (B) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the DIP Collateral, (C) to assess, charge, collect, advance, deduct and receive payments with respect to the Prepetition Obligations or the DIP Obligations, as applicable, including, without limitation, all interests, fees, costs and expenses permitted under the DIP Documents (subject to Section 5.12 of the Interim Orders) and apply such payments to the Prepetition Obligations or DIP Obligations pursuant to the DIP Documents and/or the Interim Orders, as applicable, and (II) upon an Event of Default, (A) declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral, (B) to take any other action and exercise all other rights and remedies provided to it by the Interim Orders, the DIP Documents or applicable law other than those rights and remedies subject to the expiration of the Remedies Notice Period, and (C) charge interest at the default rate under the DIP Documents.

(b) In addition, and without limiting anything in Section 3.4(a) hereof, upon the filing of a Carve-Out Trigger Notice on the docket of these Chapter 11 Cases and the expiration of the five (5) business day period thereafter (the “**Remedies Notice Period**”), DIP Agent, acting on behalf of itself and DIP Lender, without further notice, application or order of the Court, shall be entitled to take any action and exercise all rights and remedies provided to it by

the Interim Orders, the DIP Documents or applicable law that DIP Agent may deem appropriate in its sole discretion to proceed against and realize upon the DIP Collateral or any other assets or properties of the Estates upon which DIP Agent, for the benefit of itself and DIP Lender, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible repayment of all DIP Obligations. Notwithstanding anything to the contrary, any action that DIP Agent is otherwise permitted to take pursuant to the Interim Orders to (i) terminate the DIP Commitments, (ii) accelerate the DIP Loans, (iii) send blocking notices or activation notices pursuant to the terms of any deposit account control agreement, and (iv) repay any amounts owing in respect of the DIP Obligations (including, without limitation, fees, indemnities and expense reimbursements), in each case, shall not require any advance notice to the Debtors. During the Remedies Notice Period, the Debtors, the Committee, and/or any party in interest shall be entitled to seek an emergency hearing, and DIP Agent and DIP Lender shall consent to such emergency hearing so long as it occurs within the Remedies Notice Period; provided, that, (A) the sole issue the Debtors may bring before the Court at any such emergency hearing is whether an Event of Default has occurred, and (B) if such emergency hearing cannot be scheduled prior to the expiration of the Remedies Notice Period solely as a result of the Court's unavailability, the Remedies Notice Period shall be automatically extended to the date that is one (1) business day after the first date the Court is available.

Section 4. Representations; Covenants; and Waivers.

4.1 Reservation of Third-Party Challenge Rights. Notwithstanding anything in the Interim Orders, the stipulations, releases, agreements, and admissions contained in the Interim Orders, including, without limitation, paragraph G hereof (collectively, the “*Debtors’ Stipulations*”), shall be binding in all circumstances on the Debtors, their respective Estates and any successor (including, without limitation, any estate representative or a chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors with respect thereto) provided that, the Debtors’

Stipulations shall be binding on each other party in interest, including, without limitation, the Committee, unless (a) any such party in interest with standing and authority (which the DIP Secured Parties and Prepetition Secured Parties hereby agree may be sought on an emergency basis), including the Committee, has timely filed a complaint or a motion seeking authority to commence litigation as a representative of the estate (a “**Challenge**”) before the earliest of (i) the objection deadline for the Plan, (ii) sixty (60) calendar days from the date of appointment of the Committee by the U.S. Trustee, and (iii) seventy-five (75) calendar days from the Petition Date for all parties other than the Committee (the “**Challenge Period**”) challenging the amount, validity, perfection, enforceability, priority, or extent of the Prepetition Obligations or Prepetition Liens, or otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims, or causes of action, objections, contests, or defenses with respect to the Prepetition Obligations or Prepetition Liens and (b) such Challenge sets forth with specificity the basis for such challenge, and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever waived, released, and barred. For the avoidance of doubt, a party’s commencement of a timely Challenge shall preserve the Challenge Period only with respect to such party. Nothing in the Interim Orders vests or confers on any Person (as defined in the Bankruptcy Code), including the Committee, standing or authority to pursue any Challenge or cause of action belonging to the Debtors or their respective Estates, including, without limitation, claims and defenses with respect to the Prepetition Credit Agreements or the Prepetition Liens on the Prepetition Collateral. If any Challenge is timely commenced, the Debtors’ Stipulations shall nonetheless remain binding and conclusive (as provided in this paragraph) on the Debtors, the Committee, and any other person or entity, except as to any specific findings and admissions that were expressly and successfully

challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. If no such Challenge is timely and properly filed, or if a Challenge is timely and properly filed but denied, (i) the Prepetition Obligations shall be deemed allowed in full, shall not be subject to any setoff, recoupment, counterclaim, deduction or claim of any kind, and shall not be subject to any further objection or challenge by any party at any time, and the Prepetition Liens on and security interest in the Prepetition Collateral shall be deemed legal, valid, perfected, enforceable, and non-avoidable for all purposes and of first and senior priority, subject to only the Carve-Out and Permitted Liens, and (ii) Prepetition Agent and Prepetition Lender, and each of their respective participants, agents, officers, directors, employees, attorneys, professionals, successors, and assigns (each in their respective capacities as such) shall be deemed released and discharged from any and all claims and causes of action related to or arising out of the Prepetition Loan Documents, and shall not be subject to any further objection or challenge relating thereto or arising therefrom by any party at any time. Nothing contained in this Section 4.1(a) shall or shall be deemed or construed to impair, prejudice or waive any rights, claims or protections afforded to DIP Agent or DIP Lender in connection with the DIP Documents, and any other post-petition financial and credit accommodations provided by DIP Agent and DIP Lender to the Debtors in reliance on section 364(e) of the Bankruptcy Code and in accordance with the terms and provisions of the Interim Orders and the DIP Documents.

4.2 Debtors' Waivers. Prior to the indefeasible repayment in full in cash of all Prepetition Obligations and all DIP Obligations (“*Repayment in Full*”), any request by the Debtors of this Court without the prior consent of the DIP Agent with respect to the following shall also constitute an Event of Default: (a) to use Cash Collateral under section 363 of the Bankruptcy Code other than as provided in the Interim Orders, (b) to obtain post-petition loans or other

financial accommodations pursuant to section 364(c) or 364(d) of the Bankruptcy Code, other than as provided in the Interim Orders or as may be otherwise expressly permitted pursuant to the DIP Documents, (c) to challenge the application of any payments authorized by the Interim Orders as pursuant to section 506(b) of the Bankruptcy Code, or to assert that the value of the Prepetition Collateral is less than the Prepetition Obligations, (d) to propose, support or have a plan of reorganization or liquidation that is inconsistent with the Plan, Backyard Sale or RSA, or (e) to seek relief under the Bankruptcy Code, including without limitation, under section 105 of the Bankruptcy Code, to the extent any such relief would in any way restrict or impair the rights and remedies of DIP Agent or DIP Lender as provided in the Interim Orders and the DIP Documents or DIP Agent's or DIP Lender's exercise of such rights or remedies; provided, however, that DIP Agent may otherwise consent in writing, but no such consent shall be implied from any other action, inaction, or acquiescence by any DIP Secured Party.

4.3 Section 506(c) Claims. Subject to entry of the Final Order, no costs or expenses of administration which have or may be incurred in the Chapter 11 Cases shall be charged against DIP Agent or DIP Lender, their respective claims, or the DIP Collateral pursuant to §§ 105 or 506(c) of the Bankruptcy Code or otherwise without the prior written consent of DIP Agent, and no such consent shall be implied from any other action, inaction or acquiescence by DIP Agent or DIP Lender.

4.4 DIP Collateral Rights. Until the occurrence of Repayment in Full:

(a) no other party shall foreclose or otherwise seek to enforce any junior lien or claim in DIP Collateral and

(b) upon and after the delivery of a Carve-Out Trigger Notice and the expiration of the Remedies Notice Period, if requested by the DIP Agent in connection with such exercise of rights and remedies, the Debtors shall cooperate with the DIP Agent to, among

other things, (i) make reasonable efforts to collect accounts receivable, without setoff by any account debtor, (ii) provide at all reasonable times access to the Debtors' premises to representatives or agents of the DIP Agent (including any collateral liquidator or consultant), (iii) provide the DIP Agent and its representatives or agents, at all reasonable times access to the Debtors' books and records and any information or documents requested by the DIP Agent or their respective representatives, (iv) perform all other obligations set forth in the DIP Documents, and (v) take reasonable steps to safeguard and protect the DIP Collateral.

4.5 Release of DIP Secured Parties. Subject to entry of the Final Order, each of the Releasors hereby forever, unconditionally, permanently, and irrevocably release, discharge, and acquit each of the DIP Secured Parties and their respective successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives (collectively, the "***DIP Releasees***") of and from any and all claims, demands, liabilities, damages, expenses, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every kind, nature and description, whether arising in law or otherwise, and whether known or unknown, matured, or contingent that any of the Releasors had, have or hereafter can or may have against any DIP Releasees as of the date hereof, in respect of events that occurred on or prior to the date hereof with respect to the Debtors, the Prepetition Obligations, the Prepetition Loan Documents, the DIP Obligations, the RSA, the Plan, the Backyard Sale, the DIP Documents and any DIP Loans or other financial accommodations made by DIP Agent and/or DIP Lender to the Debtors pursuant to the Prepetition Loan Documents or the DIP Documents including, without limitation, any so-called "lender liability" claims or defenses, (a) any so-called "lender liability" or equitable subordination claims or defenses, (b) any and all "claims" (as defined in the Bankruptcy Code) and causes of action arising under the Bankruptcy Code, and (c) any and all offsets, defenses, claims, counterclaims,

set off rights, objections, challenges, causes of action, and/or choses in action of any kind or nature whatsoever, whether arising at law or in equity, including any recharacterization, recoupment, subordination, avoidance, or other claim or cause of action arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state, federal, or foreign law, including, without limitation, any right to assert any disgorgement or recovery, in each case, with respect to the extent, amount, validity, enforceability, priority, security, and perfection of any of the DIP Obligations, the DIP Documents, or the DIP Liens.

Section 5. Other Rights and DIP Obligations.

5.1 No Modification or Stay of This Second Interim Order. The DIP Agent and DIP Lender have acted in good faith in connection with the DIP Facility and with this Second Interim Order, and their reliance on this Second Interim Order is in good faith, and the DIP Agent and DIP Lender are hereby entitled to the full protections of section 364(e) of the Bankruptcy Code. Notwithstanding (a) any stay, modification, amendment, supplement, vacating, revocation or reversal of the Interim Orders, the DIP Documents or any term hereunder or thereunder, (b) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (c) the dismissal or conversion of one or more of the Chapter 11 Cases (each, a “**Subject Event**”), (x) the acts taken by each of DIP Agent and DIP Lender in accordance with the applicable Interim Orders, and (y) the DIP Obligations incurred or arising prior to DIP Agent’s actual receipt of written notice from the Debtors expressly describing the occurrence of such Subject Event shall, in each instance, be governed in all respects by the original provisions of the applicable Interim Orders, and the acts taken by DIP Agent and DIP Lender in accordance with the Interim Orders, and the liens granted to DIP Agent and DIP Lender in the DIP Collateral, and all other rights, remedies, privileges, and benefits in favor of DIP Agent and DIP Lender pursuant to the Interim Orders and the DIP Documents shall remain valid and in full force and effect pursuant to section 364(e) of the

Bankruptcy Code. For purposes of this Second Interim Order, the term “appeal”, as used in section 364(e) of the Bankruptcy Code, shall be construed to mean any proceeding for reconsideration, amending, rehearing, or re-evaluating this Second Interim Order by the Court or any other tribunal.

5.2 Power to Waive Rights; Duties to Third Parties. DIP Agent and Prepetition Agent, as applicable, shall have the right to waive any of the terms, rights and remedies provided or acknowledged in the applicable Interim Orders that are in favor of the DIP Secured Parties and Prepetition Secured Parties, respectively (the “*Lender Rights*”), and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any Lender Right(s). Any waiver by DIP Agent or Prepetition Agent of any Lender Rights shall not be or constitute a continuing waiver unless expressly provided therein. Any delay in or failure to exercise or enforce any Lender Right shall neither constitute a waiver of such Lender Right, subject any of the DIP Secured Parties or Prepetition Secured Parties to any liability to any other party, nor cause or enable any party other than the Debtors to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtors to any of the DIP Secured Parties or Prepetition Secured Parties.

5.3 Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral outside the ordinary course of business, other than pursuant to the terms of the DIP Term Sheet, this Second Interim Order, and the Approved Budget, without the prior written consent of DIP Agent (and no such consent shall be implied, from any other action, inaction or acquiescence by DIP Agent or DIP Lender) and, in each case, an order of the Court.

5.4 Inventory. The Debtors shall not, without the consent of DIP Agent, (a) enter into any agreement to return any inventory to any of their creditors for application against any prepetition indebtedness under any applicable provision of section 546 of the Bankruptcy Code, or (b) consent to any creditor taking any setoff against any of its prepetition indebtedness based upon any such return pursuant to section 553(b)(1) of the Bankruptcy Code or otherwise.

5.5 Reservation of Rights.

(a) The terms, conditions and provisions of this Second Interim Order are in addition to and without prejudice to the rights of each DIP Secured Party and Prepetition Secured Party to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Documents, the Prepetition Loan Documents, or any other applicable agreement or law, including, without limitation, rights to seek adequate protection and/or additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose any request for use of cash collateral or granting of any interest in the DIP Collateral or Prepetition Collateral, as applicable, or priority in favor of any other party, to object to any sale of assets, and to object to applications for allowance and/or payment of compensation of Professional Persons or other parties seeking compensation or reimbursement from the Estates and to pursue any and all rights and remedies against any Non-Debtor Loan Party.

(b) Likewise, the terms, conditions and provisions of this Second Interim Order are without prejudice to the rights of the Committee to object to entry of a final order and to pursue any and all rights, including those under the Bankruptcy Code.

5.6 Binding Effect.

(a) The provisions of the Interim Orders and the DIP Documents, the DIP Obligations, the Prepetition Adequate Protection Superpriority Claim, the DIP Superpriority

Claim and any and all rights, remedies, privileges and benefits in favor of each of DIP Agent and DIP Lender provided or acknowledged in the Interim Orders and any actions taken pursuant thereto, shall be effective immediately upon entry of this Second Interim Order notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h) and 7062, shall continue in full force and effect, and shall survive entry of any such other order converting one or more of the Chapter 11 Cases to any other chapter under the Bankruptcy Code, or dismissing one or more of the Chapter 11 Cases.

(b) Any order dismissing one or more of the Chapter 11 Cases under section 1112 or otherwise shall be deemed to provide (in accordance with §§ 105 and 349 of the Bankruptcy Code) that (a) the DIP Superpriority Claim and DIP Agent's and DIP Lender's liens on and security interests in the DIP Collateral and all other claims, liens, adequate protections and other rights granted pursuant to the terms of the Interim Orders shall continue in full force and effect notwithstanding such dismissal until Repayment in Full, and (b) the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing all such claims, liens, protections and rights.

(c) In the event the Court modifies any of the provisions of this Second Interim Order or the DIP Documents following a Final Hearing, such modifications shall not affect the rights or priorities of DIP Agent and DIP Lender pursuant to this Second Interim Order with respect to the DIP Collateral or any portion of the DIP Obligations which arises or is incurred or is advanced prior to such modifications, and this Second Interim Order shall otherwise remain in full force and effect to such extent.

(d) This Second Interim Order shall be binding upon the Debtors, all parties in interest in the Chapter 11 Cases and their respective successors and assigns, including any trustee or other fiduciary appointed in the Chapter 11 Cases or any subsequently converted

bankruptcy case(s) of any Debtor. This Second Interim Order shall also inure to the benefit of the Debtors, DIP Agent, DIP Lender, and each of their respective successors and assigns.

5.7 Restrictions on Cash Collateral Use; Additional Financing; Plan Treatment.

(a) All post-petition advances and other financial accommodations under the DIP Term Sheet and the other DIP Documents are made in reliance on the Interim Orders and there shall not at any time be entered in the Chapter 11 Cases, or in any Successor Case, any order (other than the Final Order) which authorizes the use of Cash Collateral, or the sale, lease, or other disposition of property of any Estate in which DIP Agent or DIP Lender have a lien or security interest, except as expressly permitted hereunder or in the DIP Documents, or authorizes under section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured by a lien or security interest which is equal or senior to a lien or security interest in property in which DIP Agent or DIP Lender hold a lien or security interest, or which is entitled to priority administrative claim status which is equal or superior to that granted to DIP Agent and DIP Lender herein; unless, in each instance (x) DIP Agent shall have given its express prior written consent with respect thereto, no such consent being implied from any other action, inaction or acquiescence by DIP Agent or DIP Lender, or (y) such other order requires Repayment in Full. The security interests and liens granted to or for the benefit of DIP Agent and DIP Lender hereunder and the rights of DIP Agent and DIP Lender pursuant to the Interim Orders and the DIP Documents with respect to the DIP Obligations and the DIP Collateral are cumulative.

(b) All DIP Obligations and Prepetition Obligations shall receive treatment under the Plan as set forth in the RSA, Plan Term Sheet, and DIP Term Sheet.

5.8 No Owner/Operator Liability. In determining to make any loan under the DIP Documents (including the negotiation thereof) and authorizing the use of Cash Collateral,

none of the DIP Secured Parties or the Prepetition Secured Parties shall be deemed to (i) be in control of the operations of the Debtors or to be acting as a “controlling person,” “responsible person,” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the Internal Revenue Code, the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute) or (ii) owe any fiduciary duty to any of the Debtors. Furthermore, nothing in the Interim Orders shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Secured Parties or the Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

5.9 Marshalling; 552(b) Waiver. Subject to entry of the Final Order, (a) none of the DIP Secured Parties or the Prepetition Secured Parties shall be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral or the Prepetition Collateral, as applicable, and all proceeds of DIP Collateral shall be received and applied in accordance with the DIP Documents and the Prepetition Credit Agreements as applicable, (b) the DIP Secured Parties and the Prepetition Secured Parties are and shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and (c) the “equities of the case” exception under section 552(b) shall not apply to any of the Prepetition Secured Parties, DIP Secured Parties, DIP Obligations, or Prepetition Obligations.

5.10 Right of Setoff. To the extent any funds were on deposit with Prepetition Agent as of the Petition Date, including, without limitation, all funds deposited in, or credited to, an account of any Debtor with Prepetition Agent or Prepetition Lender immediately prior to the

filing of the Chapter 11 Cases (regardless of whether, as of the Petition Date, such funds had been collected or made available for withdrawal by any such Debtor), such funds (the “*Deposited Funds*”) are subject to rights of setoff. By virtue of such setoff rights, the Deposited Funds are subject to a lien in favor of Prepetition Agent and/or Prepetition Lender, as applicable, pursuant to §§ 506(a) and 553 of the Bankruptcy Code.

5.11 Right to Credit Bid.

(a) To the fullest extent permitted by section 363(k) of the Bankruptcy Code, in connection with any sale or other disposition of the DIP Collateral or Prepetition Collateral (as applicable) including any Sale: (a) DIP Agent (on behalf of DIP Lender) shall have the right to credit bid on a dollar-for-dollar basis, in accordance with the DIP Documents, up to the full amount of the DIP Obligations, (b) subject to the challenge rights set forth in Section 4.1 hereof, Prepetition Agent (on behalf of the Prepetition Lender) shall have the right to credit bid, in accordance with the Prepetition Loan Documents, up to the full amount of the Prepetition Secured Obligations, (c) each of the DIP Agent and Prepetition Agent shall have the absolute right (at the direction of their respective secured parties) to assign, transfer, sell or otherwise dispose of its rights to credit bid in connection with the assignment, transfer, sale, or disposition of the corresponding DIP Obligations, except as may be set forth in the DIP Documents, and (d) each of the Debtors, the Prepetition Secured Parties, and DIP Secured Parties acknowledge and agree that they shall not object, or support any objection, to or limit, or support any limitation on, any other such DIP Secured Parties’ or Prepetition Secured Parties’ rights to credit bid, up to the full amount of their respective DIP Obligations and/or Prepetition Obligations,

5.12 Payment and Review of Lender Professional Fees and Expenses. Each Debtor shall pay all reasonable and documented professional fees and other expenses of the

Prepetition Secured Parties and the DIP Secured Parties, whether incurred before or after the Petition Date; provided, that the Debtors shall pay all such reasonable and documented fees and expenses within ten (10) business days of delivery of a statement or invoice for such fees and expenses (it being understood that such statements or invoices may be in summary form and shall not be required to be maintained in accordance with the U.S. Trustee Guidelines, nor shall any such counsel or other professional be required to file any interim or final fee applications with the Court or otherwise seek the Court's approval of any such payments) to the Debtors, the U.S. Trustee and the Committee, unless, within such seven (7) business day period, the Debtors or the Committee serve a written objection upon the requesting party, in which case, the Debtors shall immediately pay such amounts that are not the subject of any objection and pay the withheld amount as subsequently agreed by the parties or ordered by the Court to be paid.

5.13 Access to DIP Collateral. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of DIP Agent and DIP Lender contained in the Interim Orders, the DIP Documents, or otherwise available at law or in equity, and subject to the terms of the DIP Term Sheet, upon reasonable prior written notice to the landlord of any leased premises that an Event of Default has occurred and is continuing, DIP Agent may, subject to the applicable notice provisions, if any, in this Second Interim Order and any separate applicable agreement by and between such landlord and DIP Agent, enter upon any leased premises of the Debtors or any other party for the purpose of exercising any remedy with respect to DIP Collateral located thereon and shall be entitled to all of the Debtors' rights and privileges as lessee under such lease without interference from the landlords thereunder, provided that DIP Agent shall be obligated only to pay rent of the Debtors that first accrues after the written notice referenced above and that is payable during the period of such occupancy by DIP Agent, calculated on a daily per

diem basis. Nothing herein shall require DIP Agent to assume any lease as a condition to the rights afforded in this paragraph. For the avoidance of doubt, subject to (and without waiver of) the rights of DIP Agent under applicable nonbankruptcy law, DIP Agent can only enter upon a leased premises after an Event of Default in accordance with (i) a separate agreement with the landlord at the applicable leased premises, or (ii) upon entry of an order of the Court obtained by motion of DIP Agent on such notice to the landlord as shall be required by the Court.

5.14 Indefeasible Payment. All payments made to or for the benefit of any of the DIP Secured Parties or Prepetition Secured Parties after the Petition Date shall be indefeasible and shall not be subject to disgorgement, counterclaim, set-off, subordination, recharacterization, defense, disallowance, recovery or avoidance by any party for any reason except as may occur pursuant to application of Section 4.1 of the applicable Interim Orders, Reservation of Third-Party Challenge Rights.

5.15 Term; Termination. Notwithstanding any provision of the Interim Orders to the contrary, the term of the financing arrangements among the Debtors, DIP Agent and DIP Lender authorized by this Second Interim Order may be terminated pursuant to the terms of the DIP Term Sheet.

5.16 Limited Effect. In the event of a conflict between the terms and provisions of any of the DIP Documents, the Motion, and this Second Interim Order, the terms and provisions of this Second Interim Order shall govern.

5.17 Objections Overruled. All objections to the entry of this Second Interim Order are (to the extent not withdrawn, waived, or settled) hereby overruled.

5.18 Retention of Jurisdiction. The Court retains jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Second Interim Order, the DIP Term Sheet, and the other DIP Documents.

Section 6. Final Hearing and Objection Deadline.

The Final Hearing on the Motion pursuant to Bankruptcy Rule 4001(c)(2) is scheduled for June 13, 2024 at 9:30 a.m. (Central Time) before the Court. The Debtors shall promptly mail copies of this Second Interim Order to the Notice Parties, and to any other party that has filed a request for notices with the Court and to the Committee's counsel. Such notice is deemed good and sufficient and that no further notice need be given. The Committee shall have until June 11, 2024, at 5:00 p.m. (Central Time) to serve and file written objections (the "***Committee Objection Deadline***").

End of Order

Order submitted by:

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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

EXHIBIT A

DIP Term Sheet

KIDKRAFT, INC.

**Priming Superpriority Debtor-In-Possession Financing
 Term Sheet**

Dated as of April 25, 2024

This Priming Superpriority Debtor-in-Possession Financing Term Sheet (including all schedules, annexes and exhibits hereto, this “**Term Sheet**”) describes the principal terms and conditions of a proposed DIP Facility to be provided by the DIP Lender to the Borrower in connection with cases (collectively, the “**Chapter 11 Cases**”) to be filed by the Debtors in the United States Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Court**”) pursuant to chapter 11 of title 11 of the United States Code (as amended, the “**Bankruptcy Code**”) on or around May 6, 2024 (the date of filing, the “**Petition Date**”) and proceedings to be commenced pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (Canada) (“**CCAA**” and the related recognition proceedings, the “**CCAA Recognition Proceedings**”) in the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”).

The parties contemplate the sale of the Debtors’ assets to Backyard Products, LLC or its designee (the “**Backyard Sale**”) pursuant to that certain Asset Purchase Agreement (the “**APA**”) dated as of the date hereof between KidKraft, Inc., and certain of its affiliates and Backyard Products, LLC (the “**Purchaser**”) and an orderly wind down pursuant to a chapter 11 plan (the “**Plan**”) to be consummated in the Chapter 11 Cases pursuant to that certain Restructuring Support Agreement to which this Term Sheet is attached (the “**RSA**”) and the Plan Term Sheet attached thereto (the “**Plan Term Sheet**”).

This Term Sheet is being provided on a confidential basis and it, along with its contents and existence, may not be distributed, disclosed or discussed with any other party. This Term Sheet is not an offer for the purchase, sale or subscription or invitation of any offer to buy, sell or to subscribe for any securities. The terms and conditions set forth in this Term Sheet do not constitute or create an agreement, obligation or commitment of any kind by or on behalf of any party, unless and until executed by each of the undersigned parties hereto.

BORROWER:	KidKraft, Inc. (“ KidKraft ” or “ Borrower ”)
GUARANTORS:	The affiliates of KidKraft listed on Schedule 1 hereto (such affiliates and KidKraft, Inc., each a “ Debtor ” and collectively, the “ Debtors ”), as may be modified with the consent of the DIP Agent and any additional guarantor.
DIP LENDER:	1903 Partners, LLC (the “ DIP Lender ”)
DIP AGENT:	GB Funding, LLC (the “ DIP Agent ”, and together with the DIP Lender, the “ DIP Secured Parties ”)
DIP COMMITMENT:	The DIP Lender agrees to make senior secured superpriority priming debtor-in-possession loans (each, a “ DIP Loan ” and

	<p>in the aggregate, the “DIP Loans”) to Borrower from time to time pursuant to a multi-draw debtor-in-possession term loan facility (the “DIP Facility”) in an aggregate amount (i) not to exceed at any time outstanding aggregate commitments of \$10.5 million (the “DIP Commitment”) consisting of a \$4.0 million DIP Commitment as of the Interim Closing Date (the “Interim Commitment”) and an incremental \$6.5 million DIP Commitment as of the Final Closing Date (the “Final Commitment”) <i>plus</i> (ii) the Roll-Up Amount.</p>
<p>PURCHASE PRICE CALCULATION:</p>	<p>Every Wednesday beginning the first full calendar week following the Petition Date, the Debtors shall deliver an updated calculation of the “Purchase Price at close” in accordance with Exhibit B of the APA as though the Backyard Sale was closing on such date (each such calculation, a “Purchase Price Calculation”) to the DIP Agent and the Purchaser. If the aggregate “Purchase Price at close” in any such Purchase Price Calculation is 20% or more below the Example Purchase Price Calculation set forth in the Exhibit B of the APA, it shall be deemed a “Negative Purchase Variance.”</p>
<p>ROLL UP:</p>	<p>Upon entry of the Interim Order, \$23.3 million of the Prepetition Obligations shall be “rolled up” and converted into DIP Loans on a dollar-for-dollar cashless basis (the “Roll-Up Amount”).</p>
<p>CASH COLLATERAL:</p>	<p>“Cash Collateral” consists of: (i) cash collateral (as such term is defined in section 363(a) of the Bankruptcy Code, including, without limitation, any accounts receivable and general intangible and any other cash or right that would be included in such definition of “cash collateral” within the meaning of section 363(a) of the Bankruptcy Code) including, without limitation, all cash or cash equivalents and other amounts, including the cash in any deposit or securities accounts, wherever located; (ii) any cash or cash equivalents received as proceeds of Prepetition Collateral or DIP Collateral; and (iii) all other cash or cash equivalents of the Debtors.</p> <p>Subject to the terms of the DIP Documents, the Prepetition Secured Parties (as defined below) shall consent to the Debtors’ use of Cash Collateral during the Chapter 11 Cases and CCAA Recognition Proceedings to fund (i) working capital, (ii) general corporate purposes, (iii) restructuring costs and expenses, and (iv) any other fees required under the DIP Documents and the other definitive documentation during the pendency of the Chapter 11 Cases and CCAA Recognition</p>

	<p>Proceedings, in each case, subject to the Approved Budget (as defined below), including the Permitted Variances.</p> <p>To the extent any amounts required to be funded under this Term Sheet, the DIP Documents, the RSA, the Plan, or the APA or any other document or order (including the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount, Post-Sale Reserve, and Foreign Sale Reserve) are not actually expended, such amounts shall be deemed Cash Collateral and distributed to the DIP Agent or Prepetition Agent, as applicable.</p>
<p>CLOSING DATES:</p>	<p>“Interim Closing Date” means the date on which the “Conditions Precedent to Each Interim DIP Loan” (including, without limitation, entry of the Interim Order) are satisfied or waived in accordance with this Term Sheet.</p> <p>“Final Closing Date” means the date on which the “Conditions Precedent to Each Final DIP Loan” as set forth below (including, without limitation, entry of the Final Order) shall have been satisfied or waived in accordance with this Term Sheet.</p>
<p>DIP LOAN DOCUMENTATION:</p>	<p>At the option of the DIP Lender in its sole discretion, Debtors shall execute definitive financing documentation with respect to the DIP Loans, including, without limitation, all guaranties thereof, satisfactory in form and substance to each of the DIP Lender and Debtors (and together with this Term Sheet and other documents governing the DIP Facility, the “DIP Documents”). The provisions of the DIP Documents shall, upon execution, supersede the provisions of this Term Sheet. The provisions of the DIP Documents shall be substantially the same as the Prepetition Loan Documents with such changes as are necessary to reflect the terms of this Term Sheet, the DIP Orders and the Canadian DIP Recognition Orders (once entered).</p> <p>“Canadian DIP Recognition Orders” shall mean, as applicable, an order (after hearing on notice to all parties having or asserting a lien on all or any portion of the DIP Collateral situated in Canada), recognizing and giving effect in Canada to: (i) the Interim Order (the “Interim DIP Recognition Order,” and together with the Interim Order, the “Interim Orders”), and (ii) the Final Order (the “Final DIP Recognition Order” and together with the Final Order, the “Final Orders”).</p>

	<p>In addition to the provisions set forth herein, the DIP Orders and the Canadian DIP Recognition Orders shall contain additional customary protections for the DIP Lenders. Each of the parties’ rights and obligations hereunder shall be subject to entry of the DIP Orders and the Canadian DIP Recognition Orders.</p>
<p>ACKNOWLEDGMENT; RATIFICATION:</p>	<p>Each Debtor hereby acknowledges, confirms, and agrees that:</p> <p>(i) as of the Petition Date, the Debtors are jointly and severally indebted under and in connection with that certain <i>Amended and Restated First Lien Credit Agreement</i> dated as of April 3, 2020, among KidKraft and KidKraft Netherlands B.V. as borrowers, KidKraft Intermediate Holdings, LLC (“Holdings”), the subsidiaries of Holdings that are guarantors thereto (collectively, with Holdings, the “Guarantors”) GB Funding, LLC in its capacity as administrative agent and collateral agent (the “Prepetition Agent”), and 1903 Partners, LLC in its capacity as Lender (the “Prepetition Secured Lender”, and together with the Prepetition Agent, the “Prepetition Secured Parties”) (as may be amended, supplemented or otherwise modified from time to time, the “Prepetition Credit Agreement”, and together with all related security agreements, collateral agreements, pledge agreements, control agreements, guarantees, the “Prepetition Loan Documents”) in the aggregate principal amount of not less than \$144.9 million (together with any other amounts outstanding under the Prepetition Credit Agreement, including interest costs, expenses, indemnification obligations, and fees (including attorneys’ fees and legal expenses) (collectively, the “Prepetition Obligations”));</p> <p>(ii) the Prepetition Obligations constitute the legal, valid and binding obligations of each Debtor enforceable against it in accordance with the terms thereof, and each Debtor has no valid defense, offset or counterclaim to the enforcement of such obligations;</p> <p>(iii) the Prepetition Obligations are secured by valid, enforceable and perfected (except, in the case of perfection, for (A) Excluded Accounts and (B) commercial tort claims, letter of credit rights, certificate of title vehicles, and other assets, in each case of this clause (B), to the extent expressly excluded from the requirement to perfect liens thereon pursuant to the Prepetition Loan Documents) first priority and senior security interests in and liens (subject in priority only to those “Liens” permitted under Section 7.01 of the</p>

	<p>Prepetition Credit Agreement (the “Prepetition Permitted Liens”) and the DIP Liens) upon all of the Debtors’ assets and property other than Excluded Assets, Excluded Receivables and Consumer Goods (as each such term is defined in the Prepetition Credit Agreement) (collectively, the “Prepetition Collateral”), including Cash Collateral;</p> <p>(iv) each of the Prepetition Loan Documents to which it is a party was duly executed and delivered by such Debtor, and each is in full force and effect as of the date hereof;</p> <p>(v) the Prepetition Secured Parties are and shall be entitled to all of the rights, remedies and benefits provided for in the Prepetition Loan Documents and the DIP Orders; and</p> <p>(vi) all of the terms and conditions of the Prepetition Loan Documents, as amended and supplemented pursuant hereto and pursuant to the DIP Orders and the Canadian DIP Recognition Orders, are ratified, restated, assumed, adopted and affirmed, and each Debtor agrees (a) to be fully bound, as debtor and debtor-in-possession, by the terms of the Prepetition Loan Documents to which such Debtor is a party, (b) to pay all of the Prepetition Obligations in accordance with the terms of such Prepetition Loan Documents and in accordance with the DIP Orders, and (c) each of the Prepetition Loan Documents are hereby incorporated herein by reference and hereby are and shall be deemed adopted and assumed in full by each Debtor, each as Debtor and debtor-in-possession, and considered as agreements between such Debtor, on the one hand, and the Prepetition Secured Parties on the other hand.</p> <p>The Interim Order and Final Order shall include typical acknowledgments regarding the validity and priority of the Prepetition Secured Parties and Prepetition Obligations.</p>
<p>CHALLENGE PERIOD:</p>	<p>The “ACKNOWLEDGMENT; RATIFICATION” section of this Term Sheet and portion of the “RELEASES” sections of this Term Sheet pertaining to the Prepetition Obligations, Prepetition Loan Documents, and Prepetition Secured Parties shall be subject to a typical “challenge period” (the “Challenge Period”) to be set forth in the Interim Order and Final Order, which Challenge Period shall expire prior to the date that the Plan is confirmed by the Bankruptcy Court.</p>

CARVE-OUT:	<p>“Carve-Out” shall mean the sum of:</p> <p>(i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code <i>plus</i> interest at the statutory rate;</p> <p>(ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code;</p> <p>(iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise all unpaid fees, costs, disbursements and expenses (the “Allowed Professional Fees”) incurred or earned by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Committee (if any) pursuant to sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals,” and, together with the Debtor Professionals, the “Professional Persons”) at any time on or before the first business day following delivery by the DIP Lender to the Debtors of a Carve-Out Trigger Notice (as defined in the Interim Order and Final Order), but shall not include any restructuring, sale, transaction or other “success” fee except for such fee earned by Robert W. Baird & Co. Inc. in its capacity as investment banker to the Debtors during such time;</p> <p>(a) Commencing on the Friday of the first full calendar week following the Petition Date and on a weekly basis thereafter, the DIP Secured Parties shall loan and the Debtors shall fund, using borrowings from the DIP Facility or cash on hand, a segregated account (the “Funded Reserve Account”) held by the Debtors in trust for the benefit of the Debtor Professionals in an amount equal to the amount of applicable Professional Fees set forth in the Approved Budget, subject to the objection procedures herein in the “Debtor Professional Budget and Reporting” section.</p> <p>(iv) Allowed Professional Fees of the Professional Persons in an aggregate amount not to exceed \$150,000 accrued after the first business day following delivery by the DIP Agent of a Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, final order, or otherwise; and</p> <p>(v) an amount up to the amount secured by and necessary to fund the Administration Charge (as defined below) for the</p>
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	<p>beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings.</p>
<p>USE OF PROCEEDS:</p>	<p>Proceeds of the DIP Loans (and Cash Collateral) will be used solely in accordance with the Approved Budget (as defined below) for (a) working capital and general corporate purposes of the Debtors, (b) restructuring costs and expenses, (c) costs and expenses related to the DIP Facility, (d) payment of interest on the DIP Loans, and (e) other costs to ensure consummation of the Plan.</p> <p>Neither proceeds of the DIP Loans nor any Cash Collateral shall be used (i) to permit the Borrower, the Guarantors or any other party-in-interest or any of their representatives to challenge or otherwise contest or institute any proceeding to determine (x) the validity, perfection or priority of security interests in favor of any of the DIP Secured Parties or the Prepetition Secured Parties, or (y) the enforceability of the obligations of the Debtors under the DIP Documents or the Prepetition Loan Documents, (ii) to investigate, commence, prosecute or defend any claim, motion, proceeding or cause of action against any of the DIP Secured Parties or the Prepetition Secured Parties, each in such capacity, and their respective agents, attorneys, advisors or representatives.</p>
<p>APPROVED BUDGET; APPROVED CASH FLOW PROJECTION; AND VARIANCE REPORTS:</p>	<p>By no later than two (2) Business Days before the Petition Date, Debtors shall deliver to the DIP Lender a weekly budget for the 9-week period commencing on the Petition Date, and such weekly budget shall be approved by the DIP Lender and the Purchaser (such consent, which shall not be unreasonably withheld, conditioned, or delayed, other than line items of the budget pertaining to the Reimbursement Amounts (as defined in the APA) or which impact the Purchase Price (as defined in the APA), for which such consent shall be in the discretion of the Purchaser) and shall set forth, among other things, all projected cash receipts, sales, and cash disbursements, a copy of which is attached as <u>Exhibit A</u> hereto (the “Approved Budget”).</p> <p>Commencing on the Monday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time) and continuing on the two (2)-week anniversary thereafter (or such other time as the Debtors may elect with the consent of the DIP Lender), the weekly budget shall be updated, and if such updated budget is in form and substance satisfactory to the DIP Lender and the Purchaser (such consent, which shall not be unreasonably withheld, conditioned, or delayed, other</p>

	<p>than line items of the budget pertaining to the Reimbursement Amounts or which impact the Purchase Price, for which such consent shall be in the discretion of the Purchaser), it shall become the “Approved Budget” for purposes of this Term Sheet and the DIP Orders. Commencing on the Wednesday of the first full calendar week after the Petition Date at 5:00 p.m. (Central Time), and on a weekly basis thereafter (or at such other times as the Debtors may elect with the consent of the DIP Lender) the Debtors shall deliver to the DIP Lender a variance report in form and substance reasonably acceptable to the DIP Lender (an “Approved Variance Report”) showing comparisons of actual results for each line item against such line item in the Approved Budget. Thereafter, Debtors shall deliver to the DIP Lender, an Approved Variance Report on a weekly basis for (a) the preceding week, and (b) the trailing four (4) week period (or, if fewer than four (4) weeks have lapsed since the Petition Date, then for the trailing one, two or three week period, as applicable).</p> <p>Each Approved Variance Report shall indicate whether there are any adverse variances that exceed any of the Permitted Variances.</p> <p>“Permitted Variances” shall mean variances: (a) up to 15% of the aggregate for all cash disbursements (other than fees and expenses of counsel to the DIP Secured Parties and Professional Persons) line-items in the Approved Budget, (b) less than 20% of the aggregate for all cash receipts in the Approved Budget, and (c) up to 15% of all fees and expenses incurred on a per-Professional Person basis (the “Professional Fee Variance”) in each case calculated weekly on a rolling four (4) week basis commencing as of the Petition Date, with the first such testing to begin three (3) weeks from the Petition Date, except that the Professional Fee Variance shall be calculated weekly and not on a rolling four (4) week basis. Any amendments, supplements or modifications to the Approved Budget or an Approved Variance Report shall be subject to the prior written approval of the DIP Lender in its sole discretion prior to the implementation thereof.</p> <p>Other than as set forth below in the “Debtor Professional Budgeting and Reporting” section of this term sheet, if any Professional Person exceeds the Professional Fee Variance, such Professional Person will, if requested by the DIP Lender within two (2) Business Days of receipt of such adverse variance report, make a representative available to meet and</p>
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	<p>confer with the DIP Lender as soon as practicable and no later than two (2) Business Days after delivery of such Approved Variance Report, to discuss a good faith modification to the Approved Budget (the “Meet and Confer”). If the DIP Lender and such Professional Person cannot mutually agree on a modification following the Meet and Confer, the DIP Lender may, in its sole discretion, declare an Event of Default, consistent with the provisions herein.</p> <p>To the extent the amount of actual fees and expenses of any Professional Person is less than the amount set forth in the Approved Budget on a weekly basis, such amount for such Professional Person may be rolled forward to increase the amount available to the applicable Professional Person in any subsequent week.</p>
<p>DEBTOR PROFESSIONAL BUDGETING AND REPORTING</p>	<p>Notwithstanding anything to the contrary herein, the following requirements shall apply to each Debtor Professional.</p> <p>(i) Commencing on the Monday of the first full calendar week after the Petition Date and continuing weekly thereafter, each Debtor Professional shall submit a report of the prior week’s accrued fees and expenses to the DIP Agent (the “Debtor Professional Report”).</p> <p>(ii) The DIP Agent shall review the Debtor Professional Reports, may test the accrued fees and expenses in the Debtor Professional Report against the Professional Fee Variance, and must submit a written objection (if any) to the applicable Debtor Professional no later than two (2) Business Days following delivery of the Debtor Professional Report (the “Review Period”).</p> <p>(a) If the DIP Agent does not submit a written objection at the close of the Review Period, the Debtors shall fund the full amount of accrued fees and expenses in such Debtor Professional Report into the Funded Reserve Account.</p> <p>(b) If the DIP Agent submits a written objection to the Debtor Professional Report prior to the end of the Review Period, the DIP Agent and the applicable Debtor Professional shall conduct a Meet and Confer within two (2) Business Days.</p> <p>(c) At the conclusion of the Meet and Confer, if the DIP Agent elects to declare an Event of Default, the Debtors</p>

	<p>shall only fund an amount not to exceed 150% of such Debtor Professional’s budgeted amount as set forth in the Approved Budget for the period covered by such Debtor Professional Report. For the avoidance of doubt, any Event of Default or other action taken by the DIP Agent shall not impact any amounts previously funded in the Funded Reserve Account in compliance with the procedures herein.</p> <p>For the avoidance of doubt, the DIP Agent’s request for a Meet and Confer shall not (in and of itself absent an Event of Default declaration) impact any terms of the DIP Documentation, including any subsequent reporting and testing as set forth herein, nor the DIP Secured Parties’ obligations to loan and the Debtors’ obligations to fund the Funded Reserve Account in accordance with the DIP Term Sheet after a Meet and Confer is requested.</p>
<p>ADMINISTRATIVE EXPENSE CLAIM, PRIORITY TAX CLAIM, AND OTHER PRIORITY CLAIM BACKSTOP AMOUNT:</p>	<p>The amount, to be agreed upon by the Debtors and both the DIP Lender and Backyard Products, LLC, each in its sole discretion, and funded by cash on hand of the Debtors and the proceeds of the DIP Facility prior to the Confirmation Date, sufficient to satisfy the agreed upon estimated amount of the Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims excluding Allowed Professional Fee Claims; <i>provided, that</i> in no event will the DIP Lender’s obligation to provide such funding exceed the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount (as defined and set forth in the Plan).</p>
<p>FIRST PRIORITY SECURITY INTEREST:</p>	<p>All DIP Loans and other liabilities and obligations of Debtors to the DIP Secured Parties under or in connection with this Term Sheet, the DIP Documents, and the DIP Orders (collectively, the “DIP Obligations”) shall be:</p> <p>(i) pursuant to section 364(c)(1) of the Bankruptcy Code, constitute an allowed superpriority administrative expense claim (the “DIP Superpriority Claim”) in the Chapter 11 Cases of the Debtors with priority over any and all administrative expenses, whether heretofore or hereafter incurred, of the kind specified in sections 503(b) or 507(a) of the Bankruptcy Code but shall be subject to the Carve-Out and, shall be payable from the proceeds of DIP Collateral;</p> <p>(ii) pursuant to sections 364(c)(2), secured by a perfected first priority lien on the DIP Collateral, to the extent that such DIP</p>

	<p>Collateral is not subject to valid, perfected, and non-avoidable liens as of the Petition Date (but in all cases subject to the Carve-Out);</p> <p>(iii) pursuant to section 364(c)(3), secured by a perfected junior lien on DIP Collateral (as defined below), to the extent such DIP Collateral is subject to a Permitted Lien;</p> <p>(iv) pursuant to section 364(d) of the Bankruptcy Code, secured by the DIP Liens, which shall constitute a perfected, senior secured superpriority priming security interest and lien on the DIP Collateral (but in all cases subject to the Carve-Out); and</p> <p>(v) pursuant to the Canadian DIP Recognition Orders, secured by a super-priority CCAA Court-ordered charge upon DIP Collateral which is property of a Debtor formed under the laws of Canada (the “Canadian Debtors”) or DIP Collateral situated in Canada (all such collateral, the “Canadian Collateral”).</p> <p>For clarity, all existing liens, including the liens granted in connection with the Prepetition Loan Documents shall be primed and made subject to and subordinate to the DIP Liens.</p> <p>The DIP Liens shall not be <i>pari passu</i> with or subordinated to any other liens or security interests (whether currently existing or hereafter created), except (i) the Carve-Out, (ii) such liens or interests expressly agreed upon in writing by the DIP Agent in its sole discretion, (iii) with respect to the Canadian Collateral, (A) the super-priority administration charge to be established by the CCAA Court on the Canadian Collateral in the Supplemental Order (Foreign Main Proceeding) as security for the professional fees and disbursements of Canadian counsel to the Debtors, the information officer appointed by the CCAA Court in the CCAA Recognition Proceedings (the “Information Officer”) and legal counsel to the Information Officer incurred in respect of the CCAA Recognition Proceedings in an amount not to exceed C\$750,000 (the “Administration Charge”), and (B) the super-priority charge to be established by the CCAA Court on the Canadian Collateral in the Supplemental Order (Foreign Main Proceeding), securing an indemnity by KidKraft and the Canadian Debtors in favor of their directors and officers against certain Canadian obligations or liabilities that they may incur as directors and officers of KidKraft and the Canadian Debtors on or after the commencement of the</p>
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	<p>CCAA Recognition Proceedings in an amount not to exceed C\$100,000 (the “Directors’ Charge, and together with the Administration Charge, the “Canadian Priority Charges”) or (iv) such priming liens or interests imposed by applicable non-bankruptcy law and disclosed to the DIP Agent prior to the entry of the Interim Order, are in existence as of the Petition Date, and otherwise unavoidable (collectively, the “Permitted Liens”). For the avoidance of doubt, the Permitted Liens shall not include any liens which are junior in priority to the liens held by the Prepetition Secured Parties.</p>
<p>GRANT OF SECURITY INTEREST:</p>	<p>As collateral security for the prompt performance, observance, and payment in full of the DIP Obligations, each Debtor, as debtor and debtor-in-possession, hereby grants, pledges, and assigns to the DIP Agent, for the benefit of the DIP Lender, continuing security interests in and liens upon, and rights of setoff against, all of the DIP Collateral (the “DIP Liens”).</p> <p>As collateral security for the prompt performance, observance, and payment in full of the Adequate Protection Superpriority Claim (as defined below), each Debtor, as debtor and debtor-in-possession, hereby grants, pledges, and assigns to Prepetition Agent, for the benefit of the Prepetition Secured Lender, continuing security interests in and liens upon, and rights of setoff against, all of the DIP Collateral (the “Replacement Lien”).</p>
<p>ADEQUATE PROTECTION:</p>	<p>As adequate protection for any diminution of the Prepetition Secured Parties’ interest in the Prepetition Collateral resulting from the use of Cash Collateral, the subordination of their existing liens to the DIP Liens, and the imposition of the Carve-Out, the Prepetition Secured Parties shall receive:</p> <p>(i) pursuant to sections 361, 363(e), and 364(d)(l) of the Bankruptcy Code, the Replacement Lien, which shall be subject and subordinated only to the Carve-Out, the DIP Liens, and the Permitted Liens;</p> <p>(ii) an administrative expense claim, junior and subordinate only to the Carve-Out and the DIP Superpriority Claim with priority over any and all other administrative expenses (the “Adequate Protection Superpriority Claim”); and</p> <p>(iii) payment of all reasonable, documented out-of-pocket costs and expenses of the Prepetition Secured Parties relating to the DIP Facility, the Debtors’ Chapter 11 Cases, and the CCAA Recognition Proceedings (including, without</p>

	<p>limitation, prepetition and post-petition reasonable and documented fees and disbursements of counsel and advisors).</p> <p>Such adequate protection shall in all cases be subject to the Carve-Out and shall be entitled to the full protections of Section 507(b) of the Bankruptcy Code and shall be payable from Avoidance Actions upon entry of the Interim Order.</p> <p>The Prepetition Secured Parties reserve all rights with respect to additional adequate protection, including adequate protection payments substantially equal to interest on the Prepetition Obligations.</p>
<p>DIP COLLATERAL:</p>	<p>“DIP Collateral” means, collectively, all assets and property (whether tangible, intangible, real, personal or mixed), wherever located, whether now owned or owing to, or hereafter acquired by, or arising in favor of each Debtor and its respective chapter 11 estate, and any and all proceeds therefrom, including, without limiting the generality of the foregoing, all cash, Cash Collateral, accounts, accounts receivable, inventory, property, plant and equipment, real estate, leaseholds, equity interests, intellectual property, and upon entry of the Final Order, avoidance actions under chapter 5 of the Bankruptcy Code and proceeds thereof (collectively, the “Avoidance Actions”).</p> <p>For the avoidance of doubt, any amounts paid by Purchaser to the Debtors in the event of a breach or termination of the APA shall be Cash Collateral.</p> <p>The DIP Collateral shall also include any rents, issues, products, proceeds, and profits generated by any item of DIP Collateral, without the necessity of any further action of any kind or nature by the DIP Agent in order to claim or perfect such rents, issues, products, or proceeds.</p> <p>The Debtors shall take all action that may be reasonably necessary or desirable or that the DIP Agent may reasonably request, to at all times maintain the validity, perfection, enforceability and priority of the security interest and liens of the DIP Agent in the DIP Collateral, or to enable the DIP Agent to protect, exercise or enforce its rights hereunder, under the DIP Orders, the Canadian DIP Recognition Orders and in the DIP Collateral.</p>
<p>DIP FEES:</p>	<p>The Debtors shall pay the (A) DIP Lender (i) an origination fee of 2.00% of the DIP Commitment, which shall be fully</p>

	<p>earned and non-refundable on the Interim Closing Date, and shall be paid from the proceeds of the initial funding of DIP Loans, and (ii) an exit fee of 2.00% of the DIP Commitment, which shall be fully earned and non-refundable upon consummation of the Plan and (B) the DIP Agent, a weekly administrative fee of \$7,500.</p>
<p>INTEREST RATE:</p>	<p>The interest rate on the DIP Loans shall be a rate per annum equal to Adjusted Term SOFR for an Interest Period (as such terms are defined in the Prepetition Credit Agreement) of one month plus 8.50%. Interest shall be paid at the end of each Interest Period in cash, using Cash Collateral or proceeds of the DIP Loans. On the last day of each Interest Period the interest rate on the outstanding DIP Loans will be automatically deemed continued at Adjusted Term SOFR for an Interest Period of one month determined as of such date. Interest shall be paid monthly on the DIP Loans in cash, using Cash Collateral or proceeds of the DIP Loans.</p>
<p>DEFAULT RATE:</p>	<p>At all times following the occurrence and during the continuance of an Event of Default, principal, interest and other amounts due on the DIP Loans shall bear interest at a rate equal to the “Interest Rate” section above <i>plus</i> 3.00%.</p>
<p>MATURITY DATE:</p>	<p>The DIP Loans (together with all other DIP Obligations) shall mature and be due and payable on the earliest to occur of the following (such date, the “Maturity Date”):</p> <ul style="list-style-type: none"> (i) the date that is sixty (60) days after the Petition Date (the “Outside Date”), which may be extended in the sole discretion of the DIP Lender; (ii) the date which is thirty (30) days following the entry of the Interim Order if the Bankruptcy Court has not entered the Final Order on or prior to such date; (iii) the date of the Debtors’ receipt of notice of the acceleration of any of the DIP Loans and the termination of the commitments to make the DIP Loans resulting from the occurrence of an Event of Default (including, without limitation, the failure to meet any Chapter 11 Milestone set forth in the RSA (collectively, the “Chapter 11 Milestones”)); (iv) the effective date of the Plan;

	<p>(v) a sale of all or substantially all of the Debtors’ assets is consummated under Section 363 of the Bankruptcy Code (which for the avoidance of doubt shall include the Backyard Sale after the occurrence of the Sale Toggle (as defined in the Plan Term Sheet)); and</p> <p>(vi) the filing of a motion by the Debtors seeking dismissal or termination of any or all of the Chapter 11 Cases or the CCAA Recognition Proceedings, the dismissal or termination of any or all of the Chapter 11 Cases or the CCAA Recognition Proceedings, the filing of a motion by the Debtors seeking to convert any or all of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, the conversion of any or all of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code or entry of an order appointing a trustee under chapter 11 of the Bankruptcy Code, a responsible officer or examiner with enlarged powers relating to the operation of the Debtors’ business (powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section 1106 of the Bankruptcy Code, the making of an assignment in bankruptcy by or entry by any Canadian court of a bankruptcy order in respect of any of the Debtors under the <i>Bankruptcy and Insolvency Act</i> (Canada) (“BIA”), or the entry of an order of any Canadian court appointing a receiver under the BIA over any DIP Collateral, in each case without the prior written consent of the DIP Agent.</p>
<p>OPTIONAL PREPAYMENTS:</p>	<p>The Debtors may prepay the DIP Loans in whole or in part at any time without premium or penalty. All optional prepayments shall be applied to the DIP Loans in accordance with the Prepayment Waterfall set forth below. Any amounts so prepaid may not be reborrowed.</p>
<p>MANDATORY PREPAYMENTS; APPLICATION OF PREPAYMENTS:</p>	<p>The Debtors shall pay or prepay the DIP Loans and all other DIP Obligations (together with a cash reserve established for the benefit of the DIP Agent to cover asserted contingent and indemnity obligations) in accordance with the Prepayment Waterfall, in each case after funding the Carve-Out, reserving proceeds sufficient to pay accrued and unpaid expenses to the extent set forth in the Approved Budget, and reserving for amount secured by and necessary to fund the Canadian Priority Charges (without duplication), upon receipt of any of the following (each, a “Mandatory Prepayment Event”):</p> <p>(i) net proceeds of any sale or disposition of all or substantially all of Debtors’ assets pursuant to section 363 of</p>

	<p>the Bankruptcy Code simultaneous with the consummation thereof, other than the Backyard Sale.</p> <p>(ii) net proceeds of any other sale or other disposition by any Debtor of any assets, in a single transaction or series of related transactions, having a value in excess of \$10,000 (except for the sale of goods or services in the ordinary course of business, sales contemplated by the Approved Budget, and certain other sales to be agreed on); and</p> <p>(iii) 100% of the net proceeds of extraordinary receipts (including tax refunds, indemnity payments, pension reversions, acquisition purchase price adjustments and insurance proceeds not included as proceeds of asset dispositions) by any Debtor, excluding any tax refunds contemplated to be received by any of the Debtors as set forth in the Approved Budget.</p> <p>Any amounts so paid or prepaid may not be reborrowed. No reinvestment of the proceeds of any extraordinary receipts, asset sales or other proceeds described above shall be permitted without the prior written consent of the DIP Lender.</p> <p>All payments or prepayments and proceeds of DIP Collateral received by the Debtors outside the ordinary course of business (other than the Backyard Sale) will be applied in the following order of priority (the “Prepayment Waterfall” (unless otherwise determined by the DIP Lender in its sole discretion)), in each case after funding the Carve-Out, reserving proceeds sufficient to pay accrued and unpaid expenses to the extent set forth in the Approved Budget, and reserving for amount secured by and necessary to fund the Canadian Priority Charges (without duplication):</p> <p>(i) <i>first</i>, to pay all reasonable documented out-of-pocket expenses of the DIP Secured Parties (including, without limitation, reasonable and documented out-of-pocket fees and expenses of counsel and external advisors);</p> <p>(ii) <i>second</i>, to pay an amount equal to all accrued and unpaid interest (including, without limitation, any interest that accrued and was “paid in kind”) owing to the DIP Secured Parties;</p>
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	<p>(iii) <i>third</i>, to repay any principal amounts outstanding in respect of the DIP Loans (including any amounts, other interest, that have been added to the principal balance); and</p> <p>(iv) <i>fourth</i>, all other amounts owing to the DIP Secured Parties.</p> <p>Proceeds from the Backyard Sale shall be distributed in accordance with the Plan.</p>
<p>INDEFEASIBLE PAYMENT:</p>	<p>All payments made to or for the benefit of any of the DIP Secured Parties or Prepetition Secured Parties after the Petition Date shall be indefeasible and shall not be subject to disgorgement, counterclaim, set-off, subordination, recharacterization, defense, disallowance, recovery or avoidance by any party for any reason.</p>
<p>CONDITIONS PRECEDENT TO EACH INTERIM DIP LOAN:</p>	<p>The obligations of the DIP Lender to make any Interim DIP Loans will be subject to satisfaction, or written waiver, by the DIP Lender in its sole and absolute discretion, of each of the following conditions precedent in connection with each draw request:</p> <p>(i) DIP Agent shall have received a request in writing in form approved by DIP Agent, in each case signed by Borrower, not later than 5:00 p.m. New York time (or such later time as DIP Agent may consent to in its discretion) three (3) business days prior to the date of the proposed borrowing of such Interim DIP Loan;</p> <p>(ii) Debtors shall have timely delivered to the DIP Lender the Approved Budget or any update thereto required to be delivered in accordance with this Term Sheet;</p> <p>(iii) Debtors shall have delivered to the DIP Agent a Closing Certificate, duly executed by the chief executive officer, president, or chief financial officer of the Borrower and appropriately completed, by which such officer shall certify to the DIP Agent all of the conditions precedent to the Interim DIP Loans have been satisfied (at any time delivered, a “Closing Certificate”);</p> <p>(iv) the Debtor shall have delivered all Purchase Price Calculations as required hereunder, and there shall have been no Negative Purchase Variances;</p>

	<p>(v) Debtors shall be in compliance with and satisfied the applicable Chapter 11 Milestones;</p> <p>(vi) the interim order has been entered by the Bankruptcy Court (after a hearing on notice to all parties having or asserting a lien on all or any portion of the DIP Collateral) and shall not have been reversed, modified, amended, stayed or vacated, or in the case of any modification or amendment, in a manner without the consent of the DIP Lender (the “Interim Order”), and the Debtors shall be in compliance in all respects with the Interim Order;</p> <p>(vii) the DIP Lender shall be satisfied that the DIP Liens have been properly perfected and shall constitute first-priority liens (subject only to Permitted Liens);</p> <p>(viii) all reasonable, documented fees and out-of-pocket expenses of the DIP Secured Parties relating to the DIP Facility (including, without limitation, the reasonable, documented fees and out-of-pocket expenses of their counsel and external advisors) shall have been paid in full to the extent invoiced at least two (2) business days prior;</p> <p>(ix) Debtors shall have insurance (including, without limitation, commercial general liability and property insurance) with respect to the DIP Collateral in such amounts and scope as is customary for companies similarly-situated to the Debtors and otherwise reasonably acceptable to the DIP Agent, and the DIP Agent shall have received additional insured and loss payee endorsements, as applicable, with respect thereto, in form and substance reasonably acceptable to the DIP Agent;</p> <p>(x) the DIP Agent shall have received the results of a recent lien, tax, and judgment search in each relevant jurisdiction with respect to Debtors, and such search shall reveal no liens on any of the assets of Debtors other than Permitted Liens and Permitted Prepetition Liens;</p> <p>(xi) no Event of Default shall have occurred and be continuing on the Interim Closing Date, or after giving effect to the Interim DIP Loan;</p> <p>(xii) all representations and warranties of the Debtors hereunder shall be true and correct in all material respects;</p>
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	<p>(xiii) subject to Bankruptcy Court approval, (i) each Debtor shall have the corporate power and authority to make, deliver and perform its obligations under this Term Sheet and the Interim Order, and (ii) no consent or authorization of, or filing with, any person (including, without limitation, any governmental authority) shall be required in connection with the execution, delivery or performance by each Debtor, or for the validity or enforceability in accordance with its terms against such Debtor, of this Term Sheet and the Interim Order, except for consents, authorizations and filings which shall have been obtained or made and are in full force and effect, relating to the CCAA Recognition Proceedings, or, the failure to obtain or perform, could not reasonably be expected to cause a Material Adverse Change;</p> <p>(xiv) no Material Adverse Change shall have occurred;</p> <p>(xv) each of the non-Debtor borrower and the non-Debtor guarantors under the Prepetition Loan Documents shall have executed a reaffirmation and ratification agreement ratifying and confirming its obligations under each of the Prepetition Loan Documents to which it is a party and each grant of a security interest contained therein, which agreement shall be in form and substance acceptable to the Prepetition Secured Parties;</p> <p>(xvi) DIP Agent shall have received, such certificates of good standing (to the extent such concept exists) from the applicable secretary of state (or equivalent) of the state (or other jurisdiction) of organization of each Debtor, certificates of resolutions or other corporate or limited liability company action, incumbency certificates and/or other certificates of responsible officers of each Debtor as the DIP Agent may reasonably require evidencing the identity, authority and capacity of each responsible officer thereof authorized to act as a responsible officer in connection with this DIP Term Sheet and the other DIP Documents to which such Debtor is a party or is to be a party on the Interim Closing Date and certifying the organization documents of each Debtor; and</p> <p>(xvii) the DIP Secured Parties shall have received such other information and/or deliverables as they may reasonably require or request consistent with the Prepetition Loan Documents.</p> <p>“Material Adverse Change” means a material adverse effect on and/or material adverse developments arising after the</p>
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	<p>Petition Date with respect to (i) the business operations, properties, assets, or financial conditions of the Debtors and their subsidiaries taken as a whole; (ii) the validity, perfection or priority of the DIP Liens granted by the Borrower and the Guarantors in favor of the DIP Secured Parties, (iii) the rights, remedies and benefits available to, or conferred upon, the DIP Secured Parties, taken as a whole; <i>provided that</i> the filing and administration of the Chapter 11 Cases and the CCAA Recognition Proceedings and related events shall not constitute a Material Adverse Change, or (iv) the Backyard Sale; <i>provided that</i> the filing and administration of the Chapter 11 Cases and the CCAA Recognition Proceedings and related events shall not constitute a Material Adverse Change.</p>
<p>CONDITIONS PRECEDENT TO EACH FINAL DIP LOAN:</p>	<p>The obligations of the DIP Lender to make any Final DIP Loans shall be subject to satisfaction or waiver of each of the following conditions:</p> <ul style="list-style-type: none"> (i) all representations and warranties of the Debtors hereunder being true and correct in all material respects; (ii) no Event of Default shall exist or would immediately result from such proposed Final DIP Loan or from the application of the proceeds therefrom; (iii) all reasonable, documented fees and out-of-pocket expenses, including reasonable, documented and out-of-pocket attorney’s fees of the DIP Secured Parties, shall have been paid in full; (iv) the applicable Chapter 11 Milestones shall have been satisfied; (v) a final order approving the DIP Facility shall have been entered, which final order shall not have been reversed, modified, amended, stayed or vacated or in the case of any modification or amendment, in a manner without the consent of the DIP Lender (the “Final Order,” and together with the Interim Order, the “DIP Orders”) and the Debtors shall be in compliance in all respects with the Final Order; (vi) no Material Adverse Change shall have occurred; (vii) the Debtors shall have delivered to the DIP Agent a Closing Certificate certifying all of the conditions precedent to such Final DIP Loan have been satisfied;

	<p>(viii) DIP Agent shall have received a request in writing in form approved by DIP Agent, in each case signed by Borrower, not later than 5:00 p.m. New York time (or such later time as DIP Agent may consent to in its discretion) three (3) business days prior to the date of the proposed borrowing of such Final DIP Loan;</p> <p>(ix) DIP Agent shall have received with respect to the week in which such Final DIP Loan is to be made, an Approved Budget for such week, including an Approved Variance Report;</p> <p>(x) the Debtor shall have delivered all Purchase Price Calculations as required hereunder, and there shall have been no Negative Purchase Variances; and</p> <p>(xi) the DIP Secured Parties shall have received such other information and/or deliverables as they may reasonably require or request consistent with the Prepetition Loan Documents.</p> <p>Any modifications of the Final Orders shall require the prior written consent of the DIP Secured Parties.</p>
<p>REPRESENTATIONS AND WARRANTIES:</p>	<p>The representations and warranties set forth in Sections 5.01 through 5.04, 5.06 through 5.10, 5.12, 5.13, 5.15, 5.17, and 5.18 of the Prepetition Credit Agreement are incorporated herein by reference and shall be deemed made by the Debtors for the benefit of the DIP Secured Parties in respect of the DIP Facility and DIP Obligations, <i>mutatis mutandis</i>, as if fully set forth herein, on the Interim Closing Date, on the Final Closing Date and on the date of each credit extension hereunder. Each Debtor further represents that the proceeds of each advance hereunder shall be used solely in accordance with the “Use of Proceeds” section of this Term Sheet.</p>
<p>AFFIRMATIVE COVENANTS:</p>	<p>From and after the Closing Date, each Debtor shall:</p> <p>(i) comply with the affirmative covenants set forth in Sections 6.04 through 6.08, 6.11 and 6.12 of the Prepetition Credit Agreement which are incorporated herein by reference for the benefit of the DIP Secured Parties in respect of the DIP Facility and DIP Obligations, <i>mutatis mutandis</i>, as if fully set forth herein;</p> <p>(ii) timely deliver, or cause to be timely delivered, to the DIP Lender the Approved Budget and Approved Variance</p>

	<p>Reports, and all other financial reports, budgets, forecasts, and legal and financial documentation requested by the DIP Lender (or their respective legal advisors), all in accordance with the provisions set forth herein;</p> <p>(iii) deliver, or continue to deliver, to the DIP Lender all financial and other information required to be delivered by any Debtor under Sections 6.01, 6.02, and 6.03 of the Prepetition Credit Agreement which are incorporated herein by reference for the benefit of the DIP Secured Parties in respect of the DIP Facility and DIP Obligations, mutatis mutandis, as if fully set forth herein;</p> <p>(iv) (a) keep proper books, records and accounts in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to their business and activities and consistent with Section 6.09 of the Prepetition Credit Agreement, (b) cooperate, consult with, and provide to the DIP Secured Parties all such information as required or as reasonably requested by the DIP Secured Parties, (c) permit, upon three (3) business days' notice, representatives of the DIP Secured Parties to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective inventory and accounts, to tour the Debtors' business premises and other properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations and accounts with their respective officers, employees and independent public accountants as often as may reasonably be desired, and (d) permit representatives of the DIP Secured Parties to consult with and advise the Debtors' management on matters concerning the general status of the Debtors' business, financial condition and operations;</p> <p>(v) comply with the Approved Budget (subject to the Permitted Variances) and with provisions of this Term Sheet, DIP Orders and the Canadian DIP Recognition Orders (as applicable);</p> <p>(vi) except to the extent (a) contemplated by the Approved Budget, (b) the failure to do so could not reasonably be expected to cause a Material Adverse Change, or (c) otherwise consented to by the DIP Lender in writing, continue, and cause to be continued, the business of the Debtors, maintain, and cause to be maintained, the Debtors'</p>
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	<p>existence and material relationships, rights and privileges, and comply with all material contractual obligations;</p> <p>(vii) take, or cause to be taken, all appropriate action, to do or cause to be done all things necessary, proper or advisable, to pursue and consummate the Plan in accordance with the Chapter 11 Milestones, and provide the DIP Lender with copies of any bids (including, without limitation, any information, financial or otherwise, submitted in connection with any bids) upon receipt by the Debtors;</p> <p>(viii) do or cause to be done all things reasonably necessary, proper or advisable under applicable law, and to execute and deliver such documents and other papers, as may be reasonably requested by the DIP Secured Parties to carry out the provisions of this Term Sheet, the Interim Order, the Final Order or the Canadian DIP Recognition Orders;</p> <p>(ix) take, or cause to be taken, all appropriate action to remain the sole owner of the DIP Collateral, free of liens other than Permitted Liens and Permitted Prepetition Liens;</p> <p>(x) take, or cause to be taken, all appropriate action to comply with all material applicable laws with respect to the DIP Collateral;</p> <p>(xi) pay when due all U.S. Trustee fees;</p> <p>(xii) provide all notices received from the Purchaser under the APA, and exercise or refrain from exercising, as applicable, such rights, in each case, in accordance with the written instructions (emails suffice) of the DIP Agent, and otherwise allow the DIP Agent to participate and audit any of the Debtors' rights under the APA;</p> <p>(xiii) the Debtors shall not release or otherwise terminate, or cause to be released or otherwise terminated, any security interest granted by the Debtors' non-debtor affiliates under the Prepetition Loan Documents before a substitute, valid right of pledge or similar charge has been created, consented to and perfected by such affiliate in favor of the Prepetition Secured Parties (which substitute shall include a right, pledge or charge against any proceeds of the asset on which the security interest has been released or terminated); and</p> <p>(xiv) promptly provide such additional information concerning the Debtors, the Plan, or the DIP Collateral as the</p>
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	<p>DIP Secured Parties may reasonably request and access to Debtors’ officers, directors, and advisors to discuss such information at reasonable times during normal business hours (and such officers, directors, and advisors shall be directed to discuss such information with the DIP Secured Parties).</p>
<p>NEGATIVE COVENANTS:</p>	<p>Unless otherwise provided in the Approved Budget, this Term Sheet or as part of the Plan, no Debtor shall, without the express, prior written consent of the DIP Agent, do, or cause to be done, any of the following:</p> <p>(i) create, incur, assume or suffer to exist any lien (other than a Prepetition Permitted Lien) upon any of its property, assets, income or profits, whether now owned or hereafter acquired, except valid, perfected and unavoidable liens existing as of the Petition Date which, other than Permitted Liens, are junior to the liens securing the DIP Facility, and shall not cause, or permit to be caused, any direct or indirect subsidiary of Borrower that is not a Debtor to, create, incur, assume or suffer to exist any such liens;</p> <p>(ii) convey, sell, lease, assign, transfer or otherwise dispose of (including through a transaction of merger or consolidation) any of its property, business or assets, whether now owned or hereafter acquired, out of the ordinary course of business;</p> <p>(iii) incur or make any expenditure, investment or other payment, or any Restricted Payment (as defined in the Prepetition Credit Agreement), other than in accordance with the Approved Budget, subject to the Permitted Variances;</p> <p>(iv) create, or acquire any ownership interest in, any subsidiaries (whether direct or indirect) other than those existing on the Petition Date;</p> <p>(v) create, incur assume or suffer to exist any indebtedness other than (A) indebtedness of the Debtors under this Term Sheet, (B) indebtedness contemplated by the Approved Budget and (D) indebtedness permitted under Section 7.03(l), (o), (v) or (z) of the Prepetition Credit Agreement;</p> <p>(vi) enter into any transaction of any kind with any Affiliate of Borrower without the DIP Agent’s prior written consent or as otherwise permitted by the order of the Bankruptcy Court governing the Debtors’ authorization to continue using its cash management system; or</p>

	<p>(vi) consummate any amendment, restatement, supplement or other modification to or waiver of any of its organization documents.</p>
<p>EVENTS OF DEFAULT:</p>	<p>Each of the following shall constitute an “Event of Default”:</p> <p>(i) after the first applicable testing date, the occurrence of any deviation from the Approved Budget that is greater than the Permitted Variances; <i>provided, that</i>, the DIP Lender may only declare an Event of Default arising from any deviation from the Professional Fee Variance if the DIP Lender and such Professional Person cannot mutually agree to a good faith modification during the Meet and Confer;</p> <p>(ii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents, DIP Orders, the Canadian DIP Recognition Orders or Approved Budget;</p> <p>(iii) any modification by the Debtors of the DIP Secured Parties’ rights under the DIP Documents, DIP Orders or the Canadian DIP Recognition Orders;</p> <p>(iv) failure of any of the Chapter 11 Milestones to be satisfied;</p> <p>(v) failure by any Debtor to be in compliance in all material respects with the sections of the Term Sheet entitled “Affirmative Covenants” (and five (5) business days shall have elapsed since the DIP Lender shall have given notice to the Debtors of such failure) and “Negative Covenants” or failure to otherwise be in compliance in all material respects with any other provision of this Term Sheet, the DIP Orders and the Canadian DIP Recognition Orders;</p> <p>(vi) failure of any representation or warranty to be true and correct in all material respects when made;</p> <p>(vii) the filing of any application by the Debtors for the approval of (or an order is entered by the Court approving) any claim arising under Section 507(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or any security, mortgage, collateral interest or other lien in any of the Chapter 11 Cases or CCAA Recognition Proceedings which is <i>pari passu</i> with or senior to the DIP Superpriority Claims or the DIP Liens, excluding liens arising under the DIP Orders or the Canadian DIP Recognition Orders, or</p>

	<p>pursuant to any other financing agreement made with the prior written consent of the DIP Agent;</p> <p>(viii) the filing of any application by the Debtors for the approval of (or an order is entered by the Court authorizing) compensation or other amounts under any employee or executive incentive or retention plans (or any similar sort of retention or incentive program) without the prior written consent of the DIP Secured Parties in their sole discretion;</p> <p>(ix) any request made by the Debtors for, or the reversal, modification, amendment, stay, reconsideration or vacatur of the DIP Orders, as entered by the Bankruptcy Court or the Canadian DIP Recognition Orders, as entered by the CCAA Court, as applicable, without the prior written consent of the DIP Secured Parties;</p> <p>(x) the commencement of any action by the Debtors or other authorized person (other than an action permitted by the DIP Orders or the Canadian DIP Recognition Orders) against any of the DIP Secured Parties or its agents and employees, to subordinate or avoid any liens made in connection with the DIP Orders or the Canadian DIP Recognition Orders;</p> <p>(xi) (1) the assertion by the Debtors in any pleading filed in any court that any material provision of the DIP Orders, the Canadian DIP Recognition Orders or this Term Sheet is not valid and binding for any reason, or (2) any material provision of the DIP Orders, the Canadian DIP Recognition Orders or this Term Sheet shall for any reason, or any other order of this Court approving the Debtors' use of Cash Collateral (as defined in the DIP Orders), cease to be valid and binding (without the prior written consent of the DIP Secured Parties);</p> <p>(xii) the filing with the Bankruptcy Court of a plan of reorganization or liquidation in any of the Chapter 11 Cases other than the Plan;</p> <p>(xiii) the appointment or entry of an order in any of the Chapter 11 Cases of a trustee, receiver, examiner, or responsible officer with enlarged powers relating to the operation of the business of any Debtor (powers beyond those set forth in sections 1106(a)(3) and (a)(4) of the Bankruptcy Code), unless such appointment or order has not been</p>
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	<p>reversed, stayed, or vacated within thirty (30) days after the entry of such order;</p> <p>(xiv) the granting of relief from the automatic stay by the Bankruptcy Court or of the stay ordered by the CCAA Court to any other creditor or party in interest in the Chapter 11 Cases with respect to any portion of the DIP Collateral exceeding \$100,000 in value in the aggregate;</p> <p>(xv) failure to pay principal, interest or other DIP Obligations in full in cash when due, including without limitation, on the Maturity Date;</p> <p>(xvi) the allowance of any claim or claims under section 506(c) or 552(b) of the Bankruptcy Code against or with respect to any DIP Collateral;</p> <p>(xvii) withdrawal or material modification by the Debtors of any motion in connection with the Backyard Sale, without the consent of the DIP Secured Parties;</p> <p>(xviii) the Debtors seek to consummate an Alternative Transaction (as defined in the APA) without the prior written consent of the DIP Secured Parties;</p> <p>(xix) the Plan is not confirmed or is changed without the DIP Secured Parties' consent, or the Plan Sponsor breaches (or is anticipated to breach) its obligations under the Plan;</p> <p>(xx) the occurrence of any Material Adverse Change;</p> <p>(xxi) any termination of the RSA or the APA;</p> <p>(xxii) the actual amount of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims (each as defined in the Plan) exceeds or is expected to exceed the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount;</p> <p>(xxiii) the occurrence of any Negative Purchase Variance under any Purchase Price Calculation;</p> <p>(xxiv) such other events of default to be included in the DIP Orders as reasonably specified by the DIP Secured Parties with the reasonable consent of the Debtors; and</p>
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	<p>(xxv) the conversion of any Chapter 11 Case to a Chapter 7 case(s), or any Debtor shall file a motion or other pleading seeking the conversion of any Chapter 11 Case to chapter 7 of the Bankruptcy Code or the making of an assignment bankruptcy by or entry by any Canadian court of a bankruptcy order in respect of any of the Debtors under the BIA, or the entry of an order of any Canadian court appointing a receiver under the BIA over any DIP Collateral, in each case, without the prior written consent of DIP Agent.</p>
<p>REMEDIES UPON EVENT OF DEFAULT:</p>	<p>Upon the occurrence and during the continuance of any Event of Default and delivery of a Carve-Out Trigger Notice (as defined in the Interim DIP Order or the Final DIP Order, as applicable) and delivery by the DIP Agent of five (5) business days' notice to the Debtors (the "Notice Period"), during which time the Debtors may seek an emergency hearing before the Bankruptcy Court, the DIP Secured Parties may not exercise rights or remedies; <i>provided, that</i>, if a hearing cannot be scheduled prior to the expiration of the Notice Period solely as a result of the Bankruptcy Court's unavailability, the Notice Period shall be automatically extended to the date that is one (1) business day after the first date that the Bankruptcy Court is available.</p> <p>After the expiration of the Notice Period, the DIP Secured Parties may (except as otherwise ordered by the Bankruptcy Court or the CCAA Court):</p> <ul style="list-style-type: none"> (i) declare all DIP Obligations (including principal of and accrued interest on any outstanding DIP Loans) to be immediately due and payable; (ii) terminate the DIP Facility and/or any further commitment to lend to Borrower; and (iii) exercise rights and remedies pursuant to the terms of the DIP Documents, the DIP Orders, the Canadian DIP Recognition Orders or applicable law, and if requested by the DIP Agent in connection with such exercise of rights and remedies, the Debtors shall cooperate with the DIP Agent to, among other things, (A) make reasonable efforts to collect accounts receivable, without setoff by any account debtor, (B) provide at all reasonable times access to the Debtors' premises to representatives or agents of the DIP Agent (including any collateral liquidator or consultant), (B) provide the DIP Agent and their representatives or agents, at all reasonable times access to the Debtors' books and records

	<p>and any information or documents requested by the DIP Agent or their respective representatives, (C) perform all other obligations set forth in the DIP Documents, and (D) take reasonable steps to safeguard and protect the DIP Collateral, and</p> <p>(iv) the Debtors shall not otherwise interfere with or actively encourage others to interfere with the DIP Agent’s enforcement of rights including, without limitation, the right to (W) take any actions reasonably calculated to preserve or safeguard the DIP Collateral or to prepare the DIP Collateral for sale; (X) foreclose or otherwise enforce the DIP Liens on any or all of the DIP Collateral; (Y) immediately set off any and all amounts held as Cash Collateral (including, without limitation, in any Cash Collateral account held for the benefit of the DIP Agent and DIP Lenders); and/or (Z) exercise any other default-related rights and remedies under the under the DIP Facility Documents, this Interim Order the DIP Orders, the Canadian DIP Recognition Orders or applicable law.</p>
<p>DIP SECURED PARTIES’ EXPENSES:</p>	<p>All reasonable, documented out-of-pocket costs and expenses of the DIP Secured Parties relating to the DIP Facility, the Debtors’ Chapter 11 Cases, and the CCAA Recognition Proceedings (including, without limitation, prepetition and post-petition reasonable and documented fees and disbursements of counsel and advisors) shall be payable by Borrower promptly upon written demand (together with summary backup documentation supporting such reimbursement request) and without the requirement for Bankruptcy Court or CCAA Court approval.</p> <p>A copy of summary invoices for the U.S. advisors to the DIP Secured Parties and Prepetition Secured Parties shall be provided by the Debtors to the Office of the U.S. Trustee, and counsel for any statutory committee, subject to customary review periods.</p>
<p>RELEASES:</p>	<p>The Interim Order and Final Order shall provide customary releases for each of the DIP Secured Parties and the Prepetition Secured Parties and each of their respective each of their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates and successors and predecessors in interest (in their respective capacities as such) (collectively, the “Released Parties”) with respect to all claims and liabilities arising from</p>

	the DIP Facility, the DIP Liens, the DIP Superpriority Claims, the DIP Documents and the Prepetition Secured Parties with respect to the Prepetition Obligations and the Prepetition Loan Documents; <i>provided that</i> , with respect to the Prepetition Secured Parties, such releases shall be subject to the Challenge Period.
INDEMNITY:	Each Debtor shall indemnify, pay and hold harmless the DIP Secured Parties (and each of their directors, officers, members, employees and agents) against any loss, liability, cost, or expense incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof (except to the extent resulting from the gross negligence, or willful misconduct, bad faith, or a material breach of DIP Documents of the indemnified party, as determined by a final, nonappealable judgment of a court of competent jurisdiction).
CREDIT BID:	The DIP Agent shall have the right to credit bid the outstanding DIP Obligations on a dollar-for-dollar basis in any sale of DIP Collateral, subject to the requirement that the DIP Agent fund all Allowed Administrative Expenses, up to the Administrative Expense Claim, Priority Tax Claim, and Other Priority Claim Backstop Amount and the Carve-Out, and the amount secured by and necessary to fund the Canadian Priority Charges (without duplication).
DIP ORDERS GOVERN:	To the extent of any conflict or inconsistency between this Term Sheet and the DIP Orders, the DIP Orders shall govern.
AMENDMENT AND WAIVER:	No provision of this Term Sheet or the DIP Orders may be amended other than by an instrument in writing signed by the DIP Secured Parties and Debtors, provided, however on the Petition Date, the Parties agree to update the amounts set forth in (i) of the “Acknowledgment; Ratification” section herein and the “Roll-Up” section herein.
GOVERNING LAW AND JURISDICTION:	<p>The laws of the State of New York (except as governed by mandatory provisions of the Bankruptcy Code or the CCAA) shall govern this Term Sheet.</p> <p>The parties to this Term Sheet shall submit to the exclusive jurisdiction of the Bankruptcy Court and shall waive any right to trial by jury. Notwithstanding the foregoing, the CCAA Court shall have exclusive jurisdiction of the CCAA Recognition Proceedings.</p>

NOTICES:	<p>All notices required to be provided hereunder shall be delivered to:</p> <p>(i) if to Debtors to: KidKraft, Inc. Attention: Geoffrey Walker Email: Geoff.W@kidkraft.com</p> <p>with a copy (which shall not constitute notice) to:</p> <p>Vinson & Elkins LLP Attention: David Meyer; William Wallander; Lauren Kanzer Email: dmeyer@velaw.com; bwallander@velaw.com; lkanzer@velaw.com</p> <p>(ii) if to Prepetition Secured Parties or DIP Secured Parties to:</p> <p>GB Funding, LLC Attention: David Braun and Kyle Shonak Email: dbraun@gordonbrothers.com; kshonak@gordonbrothers.com</p> <p>with a copy (which shall not constitute notice) to:</p> <p>Katten Muchin Rosenman LLP Attention: Steven Reisman; Cindi Giglio Email: sreisman@katten.com; cgiglio@katten.com</p>
COUNTERPARTS AND ELECTRONIC TRANSMISSION:	<p>This Term Sheet may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Term Sheet by facsimile, "PDF" or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Term Sheet.</p>

Schedule 1

1. KidKraft, Inc.
2. KidKraft Intermediate Holdings, LLC
3. KidKraft International Holdings, Inc.
4. KidKraft Europe, LLC
5. KidKraft International IP Holdings, LLC
6. KidKraft Partners, LLC
7. Solowave Design Corp.
8. Solowave Design Inc.
9. Solowave Design LP
10. Solowave Design Holdings Limited
11. Solowave International Inc.

Exhibit A

Approved Budget

KidKraft, Inc. DIP Budget (9 Weeks)

DIP Week>>
Week End>>

	1	2	3	4	5	6	7	8	9	Total
	5/10/2024	5/17/2024	5/24/2024	5/31/2024	6/7/2024	6/14/2024	6/21/2024	6/28/2024	7/5/2024	
Total Inflows	2,000,000	2,097,889	1,796,228	1,079,983	1,810,476	2,048,180	2,120,225	2,160,181	2,565,020	17,678,181
Operating Cash Flow:										
Factory Payments	1,089,533	1,041,389	733,769	594,427	1,796,758	1,806,739	1,737,717	762,125	694,866	10,257,323
Cost of Sales (Shipping, Testings, etc.)	301,795	314,211	444,969	195,409	203,911	161,007	387,578	188,353	214,588	2,411,821
Employee Costs	295,450	392,554	291,039	39,254	291,039	39,254	291,039	39,254	291,039	1,715,874
Operating Expenses	518,985	377,348	266,077	410,319	797,084	535,720	217,965	378,859	545,151	4,097,506
Intercompany (from)/to China	342,000	660,000	-	-	-	225,000	570,000	-	-	128,226
Total Operational Outflows	2,547,763	2,432,202	1,735,853	1,239,408	3,088,792	2,767,720	3,204,299	1,368,591	1,745,643	20,407,750
Restructuring Fees:										
Professional Fees - BK Restructuring	30,000	626,545	574,878	408,212	424,878	408,212	633,212	429,878	526,545	5,287,361
Professional Fees - Trustee Fees (est)	-	-	-	-	-	-	-	-	-	250,000
Other	27,250	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	87,250
Total Restructuring Outflows	57,250	634,045	582,378	415,712	432,378	415,712	640,712	437,378	534,045	5,624,611
Other Obligations										
Other Employee Obligations	-	-	-	-	-	-	-	-	58,905	58,905
Priority Tax Claims	-	-	-	300,700	-	-	-	-	175,000	750,700
Severance	93,257	-	-	-	-	-	-	-	57,848	151,105
Post Sale Reserve	-	-	-	-	-	-	-	-	-	643,000
Pre-Petition Vendor Payments - CV/503b5/Shippers	-	525,000	-	425,000	-	-	-	-	-	950,000
Utility Deposit	-	20,000	-	-	-	-	-	-	-	20,000
Total Incremental Outflows	93,257	545,000	-	725,700	-	-	-	-	291,753	2,573,710
Net Cash Flow	(698,270)	(1,513,359)	(522,004)	(1,300,837)	(1,710,695)	(1,135,251)	(1,724,786)	354,211	(6,421)	(10,927,891)
Cash Requirement										
Beginning Book Balance	2,129,070	1,430,800	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070
Net Cash Flow	(698,270)	(1,513,359)	(522,004)	(1,300,837)	(1,710,695)	(1,135,251)	(1,724,786)	354,211	(6,421)	(10,927,891)
DIP Financing	-	2,211,629	522,004	1,300,837	1,710,695	1,135,251	1,724,786	(354,211)	6,421	8,798,821
Ending Cash	1,430,800	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	2,129,070	-
DIP Financing										
Interest/Origination Fee/Exit Fee	-	210,000	-	-	-	-	-	-	841,994	1,051,994
DIP Financing	-	2,211,629	522,004	1,300,837	1,710,695	1,135,251	1,724,786	(354,211)	6,421	8,798,821
Ending Balance	-	2,421,629	522,004	1,300,837	1,710,695	1,135,251	1,724,786	(354,211)	848,416	9,850,815

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED Court File No. CV-24-00720035-00CL

AND IN THE MATTER OF KIDKRAFT, INC. SOLOWAVE DESIGN HOLDINGS LIMITED., SOLOWAVE DESIGN INC., SOLOWAVE INTERNATIONAL INC. AND SOLOWAVE DESIGN LP

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

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

THIRD AFFIDAVIT OF GEOFFREY WALKER

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Lawyers for the Applicant

TAB 3

Court File No. CV-24-00720035-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	WEDNESDAY, THE 19 TH
)	
JUSTICE CAVANAGH)	DAY OF JUNE, 2024

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

AND IN THE MATTER OF KIDKRAFT, INC., SOLOWAVE DESIGN HOLDINGS
LIMITED., SOLOWAVE DESIGN INC., SOLOWAVE INTERNATIONAL INC. AND
SOLOWAVE DESIGN LP

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

RECOGNITION ORDER
(Bar Dates Order, Second Interim DIP Order, and
Final Customer Programs Order, and Related Relief)

THIS MOTION, made by KidKraft, Inc. ("**KidKraft**"), in its capacity as the foreign representative (in such capacity, the "**Foreign Representative**") of Solowave Design Holdings Limited, Solowave Design Inc., Solowave International Inc. and Solowave Design LP (collectively with KidKraft, the "**Chapter 11 Debtors**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order, among other things, recognizing certain orders entered by the United States Bankruptcy Court for the Northern District of Texas (the "**U.S. Bankruptcy Court**") in the cases commenced by the Chapter 11 Debtors pursuant to Chapter 11 of the United States Bankruptcy Code (the "**Foreign Proceeding**"), was heard this day by judicial videoconference via Zoom at Toronto, Ontario.

ON READING the Notice of Motion, the Third Affidavit of Geoff Walker affirmed June 17, 2024, and the first report of KSV Restructuring Inc., in its capacity as information officer (the “**Information Officer**”), dated June ●, 2024, each filed,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the Information Officer, and counsel for the other parties appearing on the participant information form, no one appearing for any other party although duly served as appears from the Affidavit of Service of Chloe Duggal sworn June 17, 2024, each filed:

SERVICE

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.

DEFINITIONS

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Supplemental Order (Foreign Main Proceeding) of this Court dated May 17, 2024 (the “**Supplemental Order**”).

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) *Final Order (I) Authorizing the Debtors to (A) Maintain and Administer Their Customer Programs; (B) Renew, Replace, Implement, or Modify Their Customer Programs; and (C) Honor Their Obligations Related to the Customer Programs, and (II) Granting Related Relief (the “**Final Customer Programs Order**”);*
 - (b) *Second Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001, and 9014 (I) Authorizing Debtors and Debtors in Possession to Obtain Postpetition Senior Secured Superpriority*

*Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “**Second Interim DIP Order**”); and*

- (c) *Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof (the “**Bar Dates Order**”);*

(copies of which are attached as Schedules “A” to “C” hereto, respectively);

provided, however, that in the event of any conflict between the terms of the Final Customer Programs Order, the Second Interim DIP Order, the Bar Dates Order and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property in Canada.

AMENDMENTS TO THE SUPPLEMENTAL ORDER

4. **THIS COURT ORDERS** that paragraph 24 of the Supplemental Order is hereby amended as follows:

24. **THIS COURT ORDERS** that the DIP Agent, for and on behalf of itself and the DIP Lender (each as defined in the Interim DIP Order and the Second Interim DIP Order, shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”) on the Property, which DIP Charge shall be consistent with the liens and charges created by or set forth in the Interim DIP Order and the Second Interim DIP Order provided however that, with respect to the Property, the DIP Charge shall have the priority set out in paragraphs 25 and 27 hereof, and further provided that, the DIP Charge shall not be enforced except in accordance with the terms of the Interim DIP Order and the Second Interim DIP Order and with leave of this Court.

GENERAL

5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, or regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, to give effect to this Order and to assist the Foreign Representative, the Chapter 11 Debtors, the Information Officer, and their respective 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, the Chapter 11 Debtors 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, the Chapter 11 Debtors and the Information Officer and their respective agents in carrying out the terms of this Order.

6. **THIS COURT ORDERS** that each of the Foreign Representative, the Chapter 11 Debtors and the Information Officer shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, or regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

7. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. Eastern Standard Time on the date of this Order without the need for entry or filing of this Order.

Justice Cavanagh

Schedule "A"

Final Customer Programs Order

Schedule “B”

Second Interim DIP Order

Schedule "C"
Bar Dates Order

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

AND IN THE MATTER OF KIDKRAFT, INC., SOLOWAVE DESIGN HOLDINGS LIMITED., SOLOWAVE DESIGN INC.,
SOLOWAVE INTERNATIONAL INC. AND SOLOWAVE DESIGN LP

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

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**RECOGNITION ORDER
(Bar Dates Order, Second Interim DIP Order, and
Final Customer Programs Order, and Related Relief)**

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Lawyers for the Applicant

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED Court File No: CV-24-00720035-00CL
AND IN THE MATTER OF KIDKRAFT, INC. SOLOWAVE DESIGN HOLDINGS LIMITED., SOLOWAVE DESIGN INC., SOLOWAVE INTERNATIONAL
INC. AND SOLOWAVE DESIGN LP**

APPLICATION OF KIDKRAFT, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO**

**MOTION RECORD OF THE FOREIGN
REPRESENTATIVE
(Recognition Order (Bar Dates Order, etc.)
(Returnable June 19, 2024)**

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