

**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

**SUPPLEMENTAL APPLICATION RECORD OF
THE APPLICANT (VOLUME 2 OF 2)**

**(Initial Recognition Order and Supplemental Order,
returnable May 17, 2024)**

May 15, 2024

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TO: SERVICE LIST

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This is Exhibit "D" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L

Dated: August 4, 2021

RECEIVABLES SALE AGREEMENT

between

Coface Finanz GmbH

Isaac-Fulda-Allee 1
55124 Mainz
Germany

- hereinafter referred to as "**PURCHASER**" -

and

KidKraft Inc.

4630 Olin Road
Dallas, TX 75244
United States of America

Customer No.: 2021/027

- hereinafter referred to as "**ORIGINATOR**" -

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II. SCHEDULES

- Schedule 1 (Terms and Conditions)
- Schedule 2 (Transfer of Data)
- Schedule 3 (Conditions Precedent)

Note:

Terms in capital letters have the meaning ascribed to them in, or by reference in, part B (DEFINITIONS).

1. Purpose of this Agreement

This Agreement shall be the basis for sales and purchases of Receivables and their Related Assets by the ORIGINATOR as seller and PURCHASER as purchaser of the relevant Receivables and their Related Assets.

2. Receivables Sale Agreement, Receivables Notification

2.1 The ORIGINATOR hereby offers to sell to PURCHASER all of its Receivables and their Related Assets from those Debtors set out in Schedule 1 (Terms and Conditions) together with such other Debtors as may be agreed in writing at any time prior to such sale between PURCHASER and the ORIGINATOR.

The ORIGINATOR shall be deemed to repeat each offer in respect of each individual Receivable and its Related Assets by sending a Receivables Notification to PURCHASER. Each Receivables purchase shall be effectuated by PURCHASER's acceptance of the ORIGINATOR's offer in accordance with clause 3.

Acceptance of the relevant offer shall occur by PURCHASER making a book-entry of the relevant Purchased Receivable on the Factoring Account, without any requirement for the ORIGINATOR to receive any notice of such book entry, it being understood that the ORIGINATOR will receive a Report from the PURCHASER on each Business Day.

2.2 The ORIGINATOR shall send a Receivables Notification to PURCHASER within 10 Business Days after having sent the related invoice to the relevant Debtor.

2.3 The ORIGINATOR will submit each Receivables Notification by data transfer in accordance with Format Specification.

3. Obligation to Purchase

3.1 PURCHASER shall accept the ORIGINATOR's offer to sell a Receivable and its Related Assets if the relevant Receivable satisfies the following requirements:

- (a) the Receivables Notification is correct and complete and was sent by the ORIGINATOR within the timeline set out in clause 2.2;
- (b) the relevant Receivable is Eligible at the time of such offer and at the time of sale;
- (c) the sum of the amount of the relevant Receivable and all unpaid Purchased Receivables owed by the relevant Debtor and its Affiliates does not exceed 65 % of all unpaid Purchased Receivables of the ORIGINATOR owed by all of the Debtors;
- (d) the relevant Receivable when purchased hereunder would not cause the Debtor Limit for the related Debtor to be exceeded;
- (e) the payment of the purchase price in respect of such Receivable will not result in the Maximum Commitment being exceeded; and
- (f) no Event of Default exists or would exist as a result of such purchase.

PURCHASER will only purchase whole Receivables. Partial purchases and participations will not be permitted.

3.2 PURCHASER shall purchase a Receivable and its Related Assets if a Receivable that was initially not purchased because it did not fulfill the requirements of clause 3.1 subsequently fulfills the requirements

set out in clause 3.1 in all respects. In such case, PURCHASER shall move such Receivable from the Special Account to the Factoring Account and will pay the purchase price (net of the Purchase Price Reserve) for such Receivable and its Related Assets in accordance with this Agreement.

3.3 PURCHASER may in its absolute discretion by written notice to the ORIGINATOR (which may be included in the Report), but shall not be required to, purchase any Receivable together with its Related Assets which do not fulfil the requirements set out in clause 3.1.

3.4 For the avoidance of doubt, all representations, warranties and undertakings applicable to Purchased Receivables will apply to such Receivables, except – in case of any non-fulfillment of the requirements set out in clause 3.1 (a) and (b) - to the extent that any respective non-fulfillment is notified by the ORIGINATOR to PURCHASER prior to the purchase thereof under this Agreement.

3.5 PURCHASER will, after receipt of the relevant Receivables Notification, book all Receivables included in such Receivables Notification which will not be purchased in accordance with this Agreement to the Special Account. Such Receivables shall continue to be offered for sale.

4. Purchase Price, Purchase Price Adjustment, Due Date, Reserves, Dilution

4.1 The purchase price for each Purchased Receivable and its Related Assets shall be equal to the Nominal Amount for such Purchased Receivable net of (without duplication) any applicable Dilutions (to the extent not already reflected in the applicable Nominal Amount including deductions to the outstanding principal balance of such Purchased Receivable for discounts, disputes, and credit notes in existence prior to such sale. The parties agree that each such purchase price (together with the various fees and charges outlined in this Agreement) is equal to the fair value of such Purchased Receivable and its Related Assets.

The purchase price (excluding any Purchase Price Reserve) shall be payable to the ORIGINATOR in the manner described herein when the Purchased Receivable is purchased. Any payments in respect of the purchase price and all other amounts payable by PURCHASER to the ORIGINATOR (including, without limitation, any amounts reimbursable by PURCHASER hereunder) will be made by book entry by PURCHASER on the Settlement Account.

ORIGINATOR shall pay PURCHASER on the first Business Day of each calendar month an amount equal to the sum of the Purchase Price Adjustment for each Purchased Receivable transferred by the ORIGINATOR to the PURCHASER during the immediately preceding calendar month and the PURCHASER shall debit the Settlement Account on each such Business Day (or such later date as agreed to by the PURCHASER and the ORIGINATOR) in an amount equal to the sum of all of such Purchase Price Adjustments for such immediately preceding calendar month.

4.2 The Purchase Price Reserve for any Purchased Receivable shall only be released to the ORIGINATOR, by a credit to the Settlement Account, after:

- (a) the Debtor has fully paid the relevant Purchased Receivable to PURCHASER, but in the Inhouse-Purchase procedure, only after Reconciliation Process, or
- (b) such Purchased Receivable becomes subject to a Bad Debt Case in accordance with clause 6.3.

For the avoidance of doubt, the Purchase Price Reserve shall not protect the PURCHASER from a Bad Debt Case.

4.3 PURCHASER shall be entitled to increase the Purchase Price Reserve (which shall be applicable only to Receivables purchased by PURCHASER under this Agreement after such increase) beyond the agreed amount if and to the extent that PURCHASER has, based on the facts available to it, reason to

believe that the Purchase Price Reserve is not sufficient to adequately cover all Dilutions or anticipated Dilutions on a Purchased Receivable purchased after the date of such increase.

Any such increase in the Purchase Price Reserve shall be made on a commercially reasonable basis and in good faith and shall be effective only upon written notice to the ORIGINATOR (which may be included in the Report). The Purchase Price Reserve may not be increased to protect PURCHASER from a Bad Debt Case.

4.4 In the event of a Notification of Dispute, PURCHASER shall be entitled to set aside a Special Purchase Price Reserve for such reason and to debit the Settlement Account accordingly immediately. Simultaneously, the PURCHASER will move the Receivable from the Factoring Account to the Special Account, however, the Receivables remain purchased by the PURCHASER.

PURCHASER will credit the Special Purchase Price Reserve to the Settlement Account if and to the extent that (i) the outstanding principal balance of such Purchased Receivable is paid in full by the Debtor, (ii) the outstanding principal balance of such Purchased Receivable is paid in part by the Debtor and any shortfall resulting from such partial payment is less than the Special Purchase Price Reserve (in which event the amount so credited will be the amount by which the Special Purchase Price Reserve exceeds such shortfall), (iii) it has been established by final and non-appealable judgment that the events or conditions giving rise to the Notification of Dispute have terminated without any additional Dilution on such Purchased Receivable, (iv) in the case of a Debtor that disputes its obligation to pay such Purchased Receivable and such Debtor is or becomes the subject of a case under the United States Bankruptcy Code or under the insolvency law or another jurisdiction, if such Debtor fails to timely dispute a claim properly made in such case with respect to such Purchased Receivable or (v) the applicable Debtor has acknowledged in writing, or the ORIGINATOR has provided other evidence satisfactory to PURCHASER at its sole discretion, that the events or conditions giving rise to the Notification of Dispute have terminated without any additional Dilution on such Purchased Receivable.

4.5 If on any day the outstanding principal balance of any Purchased Receivable is reduced or such Purchased Receivable is cancelled as a result of any Dilution, then on such day, the amount of such deduction or cancelation will be charged against the Purchase Price Reserve and/or the Special Purchase Price Reserve. Upon the payment of the entire outstanding principal balance of such Purchased Receivable, if the total amount of such Dilution is less than the amount of any remaining portion of the Purchase Price Reserve and/or the Special Purchase Price Reserve attributable to such Purchased Receivable, the net amount of such portion of the Purchase Price Reserve and/or the Special Purchase Price Reserve will be credited to the Settlement Account. If the aggregate amount of such reductions or cancelations exceeds the portion of the Purchase Price Reserve and/or the Special Purchase Price Reserve attributable to such Purchased Receivable, the Settlement Account will be debited accordingly.

4.6 If on any day it is determined that any of the Purchased Receivables were not Eligible at the time of purchase by PURCHASER or thereafter ceases to be Eligible (whether determined on or after the sale of such Purchased Receivable to PURCHASER), the ORIGINATOR shall have the obligation to repurchase all of such Purchased Receivables then outstanding affected by such condition (the "**Repurchased Receivables**") for a payment equal to the Repurchase Price. PURCHASER shall move such Receivable from the Factoring Account to the Special Account and upon such move, such Repurchased Receivable and its Related Assets shall hereby be, and be deemed to be, repurchased by the ORIGINATOR from PURCHASER without recourse to or warranty by PURCHASER (but free of any lien or other adverse claim created by PURCHASER or any person or entity claiming through PURCHASER, and PURCHASER shall take such necessary or commercially reasonable action to release any lien or claim on such Repurchased Receivables in favor of PURCHASER other than the liens granted and to be maintained pursuant to Article 10 hereunder). PURCHASER shall debit the Repurchase Price from the Settlement Account (after first applying thereto any Purchase Price Reserve and/or Special Purchase Price Reserve attributable to the relevant Repurchased Receivable) at such time as PURCHASER shall deem appropriate.

5. Representations and Warranties; Obligations of the ORIGINATOR Regarding Receivables

5.1 The ORIGINATOR represents and warrants to PURCHASER on the date hereof, on the date of each Receivables Notification and on the date of each Receivables purchase hereunder that, in each case, as of such date unless otherwise noted:

- (a) Each Purchased Receivable is Eligible in accordance with the definition thereof until it is fully collected (it being understood that if a Purchase Receivable becomes subject to a Dilution, the existence of such Dilution will not violate this clause (a) if the ORIGINATOR complies with the requirements of clause 4.5).
- (b) It (i) is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware, (ii) has all corporate power and all licenses, authorizations, consents and approvals of all Official Bodies required to carry on its business in each jurisdiction in which its business is now and proposed to be conducted, except where the failure to have any such licenses, authorizations, consents and approvals would not individually or in the aggregate have a Material Adverse Effect and (iii) is duly qualified to do business in, and is in good standing in, every other jurisdiction in which the nature of its business requires it to be so qualified, except where the failure to be so qualified or in good standing would not have a Material Adverse Effect.
- (c) The execution, delivery and performance by it of this Agreement, and the other documents delivered in connection herewith (i) are within its corporate powers, (ii) have been duly authorized by all necessary corporate and shareholder action, (iii) require no action by or in respect of, or filing with, any Official Body or official thereof (except as contemplated by clause 11.1), (iv) do not contravene or constitute a default under (A) its certificate of incorporation or by laws, (B) any law applicable to it in any material respect, (C) any contractual restriction binding on or affecting it or its property or (D) any order, writ, judgment, award, injunction, decree or other instrument binding on or affecting it or its property, or (v) do not result in the creation or imposition of any lien, security interest or other encumbrance upon or with respect to its property, except as contemplated hereby.
- (d) This Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the rights of creditors generally and (ii) equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law).
- (e) PURCHASER has given reasonably equivalent value to the ORIGINATOR in consideration for the transfer to PURCHASER of the Purchased Receivables and their Related Assets from the ORIGINATOR, and each such transfer has not been made for or on account of an antecedent debt owed by the ORIGINATOR to PURCHASER and, no such transfer is or may be voidable under any section of the United States Bankruptcy Code.
- (f) At the time of its purchase hereunder, the ORIGINATOR is the owner of each Purchased Receivable and all of its Related Assets free and clear of all ownership interests, liens, security interests and other encumbrances (other than any ownership or security interest arising under this Agreement in favor of PURCHASER). This Agreement constitutes a valid sale, transfer and assignment of the Purchased Receivables and their Related Assets to PURCHASER and, upon each purchase, PURCHASER shall acquire a valid and enforceable sole ownership interest in each Purchased Receivable and all of its Related Assets that exist on the date of such purchase, free and clear of any ownership interests, liens, security interests and other encumbrances.
- (g) All information heretofore furnished by the ORIGINATOR to PURCHASER for purposes of or in connection with this Agreement or any transaction contemplated hereby is, and all such information hereafter furnished by the ORIGINATOR to PURCHASER shall be, true, complete and accurate in every material respect, on the date such information is prepared, stated or

certified, and no such item contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

- (h) The ORIGINATOR has (i) timely filed all tax returns (federal, state and local) required to be filed (taking into account any properly filed extension permitted under applicable law), (ii) paid or made adequate provision for the payment of all Taxes and (iii) accounted for each sale of each Purchased Receivable and its Related Assets hereunder, in its books and financial statements as sales, consistent with GAAP; provided ORIGINATOR shall be permitted to contest any taxes in accordance with applicable law without being in breach of the forgoing representation so long as ORIGINATOR maintains adequate reserves for any contested taxes.
- (i) [Reserved.]
- (j) Within the last five (5) years, the ORIGINATOR has not changed its name, or the location of its chief executive office or its jurisdiction of organization, merged with or into or consolidated with any other corporation (other than the mergers of which the ORIGINATOR provided written notice to PURCHASER prior to the date hereof) or been the subject of any proceeding under the United States Bankruptcy Code.
- (k) The ORIGINATOR is not, and is not controlled by, an “investment company” within the meaning of the Investment Company Act of 1940, or is exempt from all provisions of such act.
- (l) All Debtors have been instructed, or arrangements agreed upon with PURCHASER to instruct Debtors as of the date of this Agreement have been made, to make payment to a Directed Account and only Collections are deposited into the Directed Accounts.
- (m) No transaction contemplated hereby requires compliance with any bulk sales act or similar law.
- (n) The fair value of the ORIGINATOR’s assets is greater than the amount of its liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated. The present fair saleable value of the ORIGINATOR’s assets is not less than the amount that will be required to pay the probable liability on its debts as they become absolute and matured. The ORIGINATOR is able to realize upon its assets and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business. The ORIGINATOR does not intend to, and does not believe that it will, incur debts or liabilities beyond its ability to pay as such debts and liabilities mature. The ORIGINATOR is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which its property would constitute unreasonably small capital.
- (o) There exists no event or condition which, either individually or together with any related events or conditions, has caused a Material Adverse Effect.

5.2

- (a) The ORIGINATOR covenants that each Purchased Receivable will continue to be Eligible in accordance with the definition thereof until it is fully collected (it being understood that if a Purchased Receivable ceases to be Eligible, such cessation will not violate this clause 5.2 if the ORIGINATOR complies with the requirements of clause 4.6); provided, however, those elements of the definition of “Eligible” measured as of a specific date (e.g., the date of purchase by PURCHASER) shall not be updated to a subsequent date for the purpose of determining whether a Purchased Receivable ceases to be Eligible.
- (b) The ORIGINATOR covenants that it will not take or permit to be taken any action that would cause any Purchased Receivable that was Eligible on the date of purchase thereof by

PURCHASER to cease to be Eligible at any time thereafter. The ORIGINATOR shall not extend the maturity date of any Purchased Receivable unless expressly permitted by PURCHASER. Furthermore, the ORIGINATOR shall not otherwise adjust or modify any Purchased Receivable or any contract giving rise to a Purchased Receivable unless the ORIGINATOR complies with clause 4.5 regarding any Dilution created by such adjustment or modification.

5.3 If a Debtor or any other person or entity makes any claim that a fact or condition exists which would cause a Purchased Receivable to not be Eligible in accordance with the definition thereof, the ORIGINATOR must inform PURCHASER by sending a Notification of Dispute promptly (but in any event within 5 Business Days of receipt or knowledge of such claim). The ORIGINATOR shall also provide PURCHASER with such other information as PURCHASER shall reasonably request regarding such matter and issue a credit note, where applicable.

6. **Bad Debt Coverage of PURCHASER**

6.1 PURCHASER hereby assumes the Bad Debt Coverage for each Purchased Receivable, in each case, to the extent that the representations and warranties in clause 5.1 are accurate for such Purchased Receivable when made (which Bad Debt Coverage shall not include or extend to limit any payments otherwise required to be made by the ORIGINATOR to PURCHASER under or in connection with this Agreement (including, without limitation, with respect to adjustments for discounts, credit notes, disputes and other Dilution)).

6.2 The Bad Debt Case occurs:

- (a) with respect to a Purchased Receivable, if the relevant Debtor fails to pay such Purchased Receivable within 120 days after its due date without disputing its obligation to pay prior to or after the expiry of such period;
- (b) with respect to all Purchased Receivables outstanding and owing from a Debtor as of any given date, if such Debtor is Unable to Pay; or
- (c) an Insolvency Event related to a Debtor occurs.

6.3 The Bad Debt Amount shall be settled in accordance with clause 4.2(b) by PURCHASER without undue delay after the occurrence of the Bad Debt Case.

7. **Debtor Limit, Discretionary Debtor Limit**

7.1 PURCHASER may, in its reasonable discretion by written notice to the ORIGINATOR (which may be included in the Report), set Debtor Limits for Debtors on the basis of the relevant Debtor's creditworthiness and reliability.

PURCHASER shall likewise be entitled by written notice to the ORIGINATOR (which may be included in the Report) to modify (including cancellation) Debtor Limits at any time. Any Debtor Limit established or increased pursuant to this clause 7 shall apply only to Receivables first occurring from and after ORIGINATOR receives of the applicable written notice, and no reduction or cancellation of any Debtor Limit will apply to Purchased Receivables previously purchased or to Receivables for which the ORIGINATOR has already completely delivered the goods or fully performed the services under the contract giving rise to such Receivables.

7.2 The ORIGINATOR shall pay to PURCHASER the fee set out in Schedule 1 (Terms and Conditions) to establish a Debtor Limit for a Debtor.

8. Non-Purchased Receivables

Any payments made by Debtors in respect of Receivables which have not been purchased hereunder or payments from other parties that are not Debtors, unless the payment is made by such other party with respect to a Purchased Receivable, shall be credited to the Settlement Account for the account of the ORIGINATOR without set-off by PURCHASER for any Bad Debt Case but in the Inhouse-Purchase only after the Reconciliation Process.

9. Sale of Receivables

9.1 The ORIGINATOR hereby absolutely and irrevocably sells and otherwise assigns any and all of its rights, title and interest in, to and under the Receivables and their Related Assets that are agreed to be purchased by PURCHASER under clauses 2 and 3 (subject to all conditions described therein). Subject to acceptance by PURCHASER pursuant to clause 2.1 by making a book-entry recording of the relevant Purchased Receivable on the Factoring Account, PURCHASER hereby accepts such sale and assignment and purchases such Receivables and their Related Assets. The foregoing sale and assignment does not constitute, and is not intended to result in, the creation or an assumption by PURCHASER of any obligation or liability of the ORIGINATOR or any other person or entity under or in connection with all, or any portion of, the Purchased Receivables or the Related Assets, all of which shall remain the obligations and liabilities of the ORIGINATOR or such other person or entity, as applicable.

9.2 Except as provided in this Agreement, each sale of Purchased Receivables and their Related Assets is made without recourse to the ORIGINATOR, provided however that in any event the ORIGINATOR shall be liable to PURCHASER for all Dilution risk as provided in clause 4.5, its repurchase obligations under clause 4.6, for all incorrect representations and warranties as provided in clause 5.1 and for all payment obligations (including for fees and reimbursement of expenses) and indemnities set out herein.

9.3 It is the intent of the ORIGINATOR and PURCHASER that each purchase and sale of Purchased Receivables and their Related Assets under this Agreement is and shall be an absolute and irrevocable true sale of such Purchased Receivables for all purposes and not a loan arrangement under applicable laws and accounting principles, including, without limitation, in their respective books, records, computer files, tax returns (federal, state and local), regulatory and governmental filings. The ORIGINATOR will advise all persons inquiring about the ownership of any Purchased Receivable that all Purchased Receivables have been sold to the PURCHASER. Each such sale shall be, subject to the terms hereof, absolute and irrevocable, providing PURCHASER with the full risks and benefits of ownership of the Purchased Receivables and their Related Assets (such that neither the Purchased Receivables nor their Related Assets would be property of the ORIGINATOR's estate in the event of its bankruptcy).

10. Security

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 the ORIGINATOR, the ORIGINATOR grants to PURCHASER a security interest, to secure all of the ORIGINATOR's present and future obligations under this Agreement, in the following, whether now existing or otherwise arising or acquired: (a) all Purchased Receivables and their Related Assets; (b) all sums standing to the ORIGINATOR'S credit with respect to the Purchased Receivables with PURCHASER (including, without limitation, any security deposits pledged under this Agreement); (c) [reserved]; (d) each Pledged Account and all amounts on deposit therein with respect to any Purchased Receivables; (e) all proceeds of the foregoing including insurance proceeds; and (f) any other property of the ORIGINATOR in which PURCHASER is assigned, purchases or is granted a lien or security interest under this Agreement or pursuant to any supplement or amendment to this Agreement or any other agreement now existing or hereafter executed by the ORIGINATOR with or in favor of PURCHASER.

10.2 In addition, as additional security, the ORIGINATOR grants to PURCHASER a security interest, to secure all of the ORIGINATOR's present and future obligations under this Agreement, in the following, whether now existing or otherwise arising or acquired: (a) [Reserved]; (b) all sums with respect to Purchased Receivables standing to the ORIGINATOR'S credit with PURCHASER (including, without limitation, any security deposits pledged under this Agreement); (c) [Reserved]; (d) each Pledged Account and all amounts on deposit therein with respect to all Purchased Receivables; (e) all proceeds of the foregoing including insurance proceeds; and (f) any other property of the ORIGINATOR in which PURCHASER is assigned, purchases or is granted a lien or security interest under this Agreement or pursuant to any supplement or amendment to this Agreement or any other agreement now existing or hereafter executed by the ORIGINATOR with or in favor of PURCHASER. For the avoidance of doubt, the security interest granted under this Clause 10.2 shall not protect the PURCHASER against a Bad Debt Case.

11. Perfection

11.1 The ORIGINATOR and PURCHASER agree that appropriate UCC financing statements or other perfection requirements have been or shall promptly be filed, at ORIGINATOR'S expense, to reflect that the ORIGINATOR is the debtor/seller and PURCHASER is the secured party/purchaser of the Purchased Receivables and their Related Assets. In addition, the ORIGINATOR irrevocably authorizes PURCHASER at any time and from time to time to file in any jurisdiction all financing statements and amendments thereto provided for by the UCC or under any other jurisdiction to perfect the security interest or ownership interest of the Purchaser. The ORIGINATOR will cooperate with PURCHASER in the filing, recording or renewal thereof (and shall if requested execute such documents as may be necessary in such regard), and to pay all out-of-pocket search, filing and recording fees and expenses related thereto, and, to the extent required or permitted by applicable law, the ORIGINATOR authorizes PURCHASER to sign the ORIGINATOR's name thereon.

11.2 On or prior to the Commencement Date, the ORIGINATOR shall mark its master data processing records evidencing Purchased Receivables and related contracts with a legend, acceptable to PURCHASER, evidencing that such Purchased Receivables have been sold in accordance with this Agreement.

11.3 The ORIGINATOR agrees that from time to time, at its expense, it shall promptly execute and deliver all further instruments and documents, and use its best efforts to take all further action, that PURCHASER may reasonably request in order to perfect, protect or more fully evidence the purchases and pledges of security hereunder, or to enable PURCHASER to exercise or enforce any of its rights hereunder with respect to the Receivables and their Related Assets. To the extent that the sale or pledge of Related Assets, as applicable, is subject to specific additional requirements at law or under the related contracts or requested by PURCHASER, the ORIGINATOR undertakes to promptly comply with any such requirements in the required form. To the extent that the ORIGINATOR holds or reacquires direct possession of any Related Assets, the ORIGINATOR shall hold such Related Assets for PURCHASER in trust and separate from any other property, shall promptly notify PURCHASER thereof (if not reacquired from PURCHASER), and waives any claims for reimbursement of expenses.

11.4 The ORIGINATOR shall not change its name, identity, jurisdiction of organization or structure (including a merger) or any other change which could render any UCC financing statement filed in connection with this Agreement to become "seriously misleading" under the UCC, unless at least thirty (30) days prior to the effective date of any such change the ORIGINATOR delivers to PURCHASER such documents, instruments or agreements, executed by the ORIGINATOR as are necessary to reflect such change and to continue the perfection of PURCHASER's ownership interest and security interest in the Receivables and the Related Assets.

12. Conditions Precedent

The effectiveness of this Agreement shall be subject to the conditions precedent that PURCHASER or its attorney shall have received an original (unless otherwise indicated) of each of the documents and

opinions described on Schedule 3 (Conditions Precedent), each in form and substance satisfactory to PURCHASER. This Agreement shall not become effective until such time as PURCHASER has confirmed in writing that the conditions of this clause 12 have been satisfied or waived by PURCHASER.

13. Full-Service Purchase, Inhouse Purchase

13.1 Schedule 1 (Terms and Conditions) sets out whether the accounts receivable bookkeeping and dunning procedure follow the rules of Full-Service-Purchase or Inhouse-Purchase.

13.2 The following rules apply to the bookkeeping:

In all instances, the ORIGINATOR will transfer the data, notices and other information relating to Receivables, such as invoices, credit notes, debit notes and Notifications of Dispute, by submitting the relevant documents pursuant to the Format Specification.

In the Full-Service-Purchase procedure, the Debtors' payments shall be booked and related to the relevant invoices directly by PURCHASER.

In the Inhouse-Purchase procedure, the Debtors' payments shall be booked by PURCHASER to the Incoming Payment Settlement Account. PURCHASER will provide to the ORIGINATOR a copy of its records of such payments so that the ORIGINATOR may relate such payments to the relevant invoices. On each Business Day, in any event at least once a week, the ORIGINATOR shall send its complete Open Items File and other information pursuant to the Format Specification to PURCHASER. Upon receipt of such data, the Reconciliation Process will be conducted by PURCHASER and all Accounts will be adjusted.

In the Inhouse-Purchase procedure, the ORIGINATOR shall keep the accounts receivable books and post all debits and credits in a timely manner so that the Open Items File is correct and up-to-date on a daily basis.

13.3 The following rules apply to the dunning procedure:

If the Debtor fails to pay a Receivable on the due date, 3 dunning runs in cycles of 14 days will generally be performed. If the relevant Receivable is not completely discharged within a period of 60 days after its due date, PURCHASER will initiate the Collection Procedure in accordance with clause 17.

In the Full-Service-Purchase procedure, PURCHASER will perform the dunning procedure, in the Inhouse-Purchase procedure, the ORIGINATOR will perform the dunning procedure. In the Inhouse-Purchase procedure, the ORIGINATOR will perform the dunning procedure in a diligent and timely manner in accordance with the forgoing schedule.

14. Disclosed/ Undisclosed Procedure

14.1 Schedule 1 (Terms and Conditions) sets out (a) whether the Disclosed Procedure or the Undisclosed Procedure applies and (b) whether Pledged Accounts or Purchaser Accounts will be used.

14.2 In the Disclosed Procedure, the ORIGINATOR will inform its Debtors at or before the Commencement Date about the purchase procedure and of the sale and assignment of Purchased Receivables and their Related Assets to PURCHASER (and the pledge of the Receivables not constituting Purchased Receivables and their Related Assets) in writing and in a letter of notification satisfactory to PURCHASER. Furthermore, the ORIGINATOR will attach to its invoices a clearly visible note of such sale and assignment (or, if applicable, such security interest) in accordance with Schedule 1 (Terms and Conditions). PURCHASER shall also be entitled to inform the Debtors about the purchase arrangement and such sale and the assignment (or, if applicable, such security interest).

The ORIGINATOR shall (and PURCHASER may) instruct all Debtors to cause all Collections on all Receivables (and not just Purchased Receivables) to be deposited directly to a Directed Account or to a related post office box (which will be owned or controlled by PURCHASER) to which only the banks maintaining the related Directed Accounts have access.

14.3 In the Undisclosed Procedure, the ORIGINATOR shall instruct all Debtors to cause all Collections on all Receivables (and not just Purchased Receivables) to be deposited directly to a Directed Account or to a related post office box (which will be owned or controlled by PURCHASER) to which only the banks maintaining the related Directed Accounts have access. The ORIGINATOR will use best efforts to ensure that only Debtors pay to the Directed Account.

14.4 In both the Disclosed and the Undisclosed Procedures, all invoices and any other relevant correspondence of the ORIGINATOR vis-à-vis its Debtors or the Receivables shall only specify the Directed Accounts as the ORIGINATOR's bank account details for proper payment. Any Debtors that may have been informed otherwise will be advised accordingly by the ORIGINATOR without undue delay and in any event no later than the latter of (i) five (5) Business Days after the origination of the related Receivable and (ii) the Commencement Date.

14.5 If Pledged Accounts are utilized, the ORIGINATOR agrees that each Pledged Account (and any related post-office box) shall at all times be subject to a valid and enforceable Control Agreement which provides PURCHASER with exclusive control over and security interest in such Pledged Account and all amounts on deposit therein free and clear of any liens, other interests or encumbrances of any kind or nature whatsoever (except those granted in favor of PURCHASER under this Agreement, Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties), and customary reimbursement and recoupment rights on the part of the depository bank therefor). The amounts received and on deposit in the Pledged Accounts with respect to Purchased Receivables shall serve the sole purpose of being transferred to PURCHASER in accordance with this Agreement. Items and amounts relating to such Collections received in post office boxes related to a Pledged Account shall be removed and deposited into such Pledged Account on each Business Day (other than postal holidays).

The ORIGINATOR represents and warrants to PURCHASER that no third party rights, encumbrances, interests or liens exist with respect to the Pledged Accounts other than Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties) and customary reimbursement and recoupment rights of each applicable depository bank. The ORIGINATOR agrees to inform PURCHASER immediately if any third party asserts any such right, encumbrance, interest or lien.

The ORIGINATOR will ensure that all amounts on deposit in each Pledged Account are withdrawn immediately prior to the Commencement Date.

14.6 In both the Disclosed and the Undisclosed Procedures, if any Collections or other payments from Debtors with respect to Purchased Receivables are received by the ORIGINATOR directly and not into a Directed Account, the ORIGINATOR hereby undertakes to transfer such amounts directly to PURCHASER or to a Directed Account within two (2) Business Days after such receipt.

In both the Disclosed and the Undisclosed Procedures, if any payment from Debtors is received by the ORIGINATOR in the form of a check, other instrument or some other item of payment that cannot be deposited into a Directed Account immediately, the ORIGINATOR shall hold such item of payment in trust for PURCHASER and shall, within two (2) Business Days' of receipt, transfer such item of payment to PURCHASER in the form received with an appropriately completed endorsement or power of attorney for the benefit PURCHASER.

14.7 PURCHASER will be entitled to conduct twice per calendar year (or more often if it has reason to believe that the ORIGINATOR is in breach of material obligations under this Agreement) a balance acknowledgement procedure with Debtors.

In the Disclosed Procedure, PURCHASER will be permitted to send an account statement setting out the Receivables which, to PURCHASER's knowledge, are unpaid at the relevant date, including the account balance thereon, accompanied with a request to the relevant Debtor to confirm the unpaid balance set out therein to be accurate and certain other facts determined by PURCHASER in its reasonable discretion.

In the Undisclosed Procedure, upon request by the PURCHASER, the ORIGINATOR will instruct an auditor or certified public accountant to obtain confirmations of the outstanding Receivables from the Debtors without undue delay and to make these available to the PURCHASER. The ORIGINATOR will use best efforts to get a response from the Debtors without being liable that the Debtors respond.

15. Change of Procedure by Partial Termination

15.1 PURCHASER is entitled to terminate in writing the Inhouse-Purchase, the Undisclosed Procedure or both without observation of a termination period at any time (being a Partial Termination).

15.2 Upon effectiveness of a Partial Termination of the Inhouse-Purchase, this Agreement shall continue as Full-Service-Purchase, upon Partial Termination of the Undisclosed Procedure this Agreement shall continue as Disclosed Procedure, respectively.

16. Monthly Account Statement, Ratification, Time Limit for Objections

16.1 PURCHASER shall, within 10 days following the end of each month, send the Monthly Account Statement to the ORIGINATOR. Such Monthly Account Statement shall be deemed accurate and complete absent manifest error.

16.2 The ORIGINATOR must raise any objections concerning the incorrectness or incompleteness of a Monthly Account Statement in writing no later than 10 Business Days following receipt thereof. Failure to make objections in due time will be considered an approval of the Monthly Account Statement. PURCHASER may, at its option, request that an officer of the ORIGINATOR sign such Monthly Account Statement. Once signed by an officer of the ORIGINATOR, the Monthly Account Statement will be considered approved and verified by the ORIGINATOR.

16.3 Notwithstanding the foregoing, PURCHASER may reverse incorrect credit or debit entries on all Accounts of the ORIGINATOR by way of a reverse debit or credit entry at any time.

PURCHASER will notify the ORIGINATOR of any reverse debit or credit entries and correction entries made by it.

17. Collection Procedure

17.1 If any Receivables remain unpaid after the third dunning letter delivered pursuant to clause 13.3, PURCHASER will initiate the Collection Procedure.

17.2 Prior to the occurrence of an Event of Default, PURCHASER shall enter into settlement agreements concerning: (x) any Dilution on any Purchased Receivable or (y) any Receivable not constituting a Purchased Receivable, only with the consent of the ORIGINATOR, which consent shall not be unreasonably withheld, conditioned or delayed. Following the occurrence of an Event of Default, PURCHASER shall have all of the rights to settle any Receivable as provided in this Agreement and under applicable law.

The ORIGINATOR undertakes not to do anything that is inconsistent with the results of a legal proceeding between PURCHASER and the Debtor and shall do such things as are necessary to ensure the results of the legal proceeding are carried into effect.

17.3 The ORIGINATOR shall bear the collection costs for all Receivables except for Purchased Receivables which are Eligible and not subject to Dilution, in which case the collection costs will be borne by PURCHASER.

17.4 All collection costs paid by PURCHASER and to be borne by the ORIGINATOR will be debited to the Settlement Account. When the Purchase Price Reserve for any Purchased Receivable is released to the ORIGINATOR as provided herein because such Purchased Receivable has become subject to PURCHASER's Bad Debt Coverage, PURCHASER shall reimburse such collection costs paid by the ORIGINATOR or previously debited to the Settlement Account in respect of such Purchased Receivable. PURCHASER shall be entitled to claim an advance of the expenses described in this clause 17.4 from the ORIGINATOR in any reasonable instance.

17.5 The ORIGINATOR shall provide PURCHASER with all documentation and other information necessary for the Collection Procedure at the latest on the 60th day after the due date of the relevant Receivable and shall continue to provide such information immediately upon request during the procedure.

18. PURCHASER as Attorney In Fact and Agent for Servicing

The ORIGINATOR hereby appoints PURCHASER as its attorney in fact to, at any time during the continuation of an Event of Default, (a) execute or sign any deeds or documents (including bills of sale and assignments) arising from or related to the Receivables; (b) obtain payment of Receivables; (c) complete, deal with, negotiate or endorse checks, bills of exchange and other items of payment; (d) institute, conduct, compromise or defend any legal proceedings arising from or related to the Receivables; (e) settle any indebtedness to the ORIGINATOR or to Debtors (including, without limitation any disputed Receivables); and (f) perform such other lawful acts as PURCHASER in its absolute discretion may consider reasonably necessary or expedient in connection with the foregoing, in each case, by proceeding in a commercially reasonable manner. This power of attorney, being coupled with an interest, is irrevocable and shall not expire until (I) all monies and obligations due to PURCHASER under all of the Purchased Receivables and this Agreement have been paid and discharged in full and PURCHASER is under no further obligation to the ORIGINATOR under this Agreement or (II) the applicable Event of Default has been cured or waived in the sole discretion of PURCHASER. The ORIGINATOR will ratify anything lawfully done by any attorney, substitute attorney or their respective agents under the powers set out above.

The ORIGINATOR hereby appoints PURCHASER as its agent and servicer for the purpose of carrying out PURCHASER's responsibilities under clause 13 and clause 17 with respect to the Receivables not constituting Purchased Receivables and their Related Assets. PURCHASER may for such purposes make use of third party or affiliated attorneys, collection agencies and other agents. The ORIGINATOR will, upon request, provide to PURCHASER all necessary or desirable powers of attorney and confirmations in favor of such agents. Furthermore, the ORIGINATOR will ratify anything lawfully done by any such agents under the powers set out above.

Notwithstanding any other provision of this Agreement, the ORIGINATOR agrees that PURCHASER will not have any liability to the ORIGINATOR arising from any action taken or omitted to be taken by PURCHASER (or its agents) pursuant to its powers exercised under and in accordance with this clause 18 other than any liability arising from the gross negligence or willful misconduct of PURCHASER, as determined in a final and non-appealable judgment by a court of competent jurisdiction.

19. Negative Pledge

- (a) The ORIGINATOR will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any ownership interest, lien, security interest or other encumbrance upon or with respect to, the Purchased Receivables or any Related Asset or upon or with respect to any Pledged Account or any other account to which any collections of any Purchased Receivable or any Related Asset are sent, or any right to receive income in respect thereof except the ownership interest of, or security interests in favor of, PURCHASER created under this Agreement or to which PURCHASER has agreed to in writing, and with respect to any

Pledged Account except for Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties).

- (b) Except for Permitted Liens, the ORIGINATOR will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any ownership interest, lien, security interest or other encumbrance upon or with respect to, the Receivables (at any time such Receivables are not Purchased Receivables) or any Related Asset or upon or with respect to any Pledged Account or any other account to which any collections of any such Receivable or any Related Asset are sent, or any right to receive income in respect thereof except the ownership interest of, or security interests in favor of, PURCHASER created under this Agreement, and with respect to any Pledged Account except for Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties).

20. Duty of Care

Unless otherwise provided in this Agreement, the ORIGINATOR will service, administer and, to the limited extent provided in this Agreement, collect the Purchased Receivables and PURCHASER hereby appoints the ORIGINATOR as its agent for such purpose. The ORIGINATOR will perform its servicing, administration and collection obligations and exercise its rights under contracts related to the Purchased Receivables with the same care and applying the same policies as it applies to its own receivables generally and would exercise and apply if it owned the Purchased Receivables and in any event with no less than reasonable care (the “Servicing Standard”). In such capacity, the ORIGINATOR shall act in accordance with the Servicing Standard with the intent of maximizing collections on the Purchased Receivables but in compliance with all applicable law and, to the extent not inconsistent with this Agreement, its credit and collection policies; provided, however, the forgoing provision does not impose any duty or obligations on ORIGINATOR to achieve specific results with respect to Collections.

21. Applicable Regulations

21.1 [Reserved].

21.2 The ORIGINATOR shall not (i) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any prohibition set forth in any Anti-Money-Laundering Law, (ii) use any part of any funds received from PURCHASER, directly or indirectly, for any payment to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977 (or any successor thereto) or (iii) use any such funds to finance any operations, investments or activities in, or make any payments to, any Restricted Person. Further, none of the funds received from PURCHASER shall be used to finance any operations, investments or activities in, or make any payments to, any such country, agency, organization or party subject to OFAC sanctions. It is, for the avoidance of doubt, understood and agreed that ORIGINATOR’s obligation pursuant to this clause 21.2 will not be binding upon any of ORIGINATOR’s or any Group member’s EU or German based employees or intermediaries to act in a manner which would result in such employee’s or intermediary’s noncompliance with their respective obligations under Sec. 4a of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*) or Council Regulation (EC) No. 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom.

22. Information Undertaking

22.1 The ORIGINATOR shall, promptly following PURCHASER's reasonable request, deliver to PURCHASER all records that document, or are necessary to enforce or otherwise collect, the Purchased Receivables and their Related Assets, such as bills of delivery, invoices, contracts, order confirmations etc.

22.2 The ORIGINATOR shall inform PURCHASER without undue delay and in any event within five (5) Business Days of any significant events relating to or materially affecting the Group's business, the ORIGINATOR's business or the Receivables or its collection or servicing thereof that materially impair ORIGINATOR's ability to permit its obligations hereunder and shall submit all relevant documents. In addition, ORIGINATOR shall provide:

- (a) The following financial information:
 - (i) Audited consolidated financial statements (120 days after the end of the financial year) of the Group,
 - (ii) (internal reporting of the ORIGINATOR which constitutes a basis for the consolidated financial statements of the Group, as a minimum including balance sheet and profit and loss (120 days after the end of the financial year) of the Group,
 - (iii) Unaudited consolidated financial statements or quarterly statements for each quarter (30 days after the end of each quarter) of the Group,
 - (iv) Liquidity statements (within 30 days after the end of each calendar quarter) of the Group, and
 - (v) Overview of all financing-lines (within 30 days after the end of each quarter) of the Group.
- (b) prior written notice of any intended changes (I) in the direct or indirect equity holders of ORIGINATOR if, following such change, Mid-Ocean shall cease to control or own a majority of the beneficial indirect interest in ORIGINATOR, or (II) to the constitutional documents of the ORIGINATOR to the extent that such changes are relevant for the performance of this Agreement or could reasonably be expected to adversely affect PURCHASER, the Receivables or the value, validity, enforceability or collectability thereof;
- (c) written notice of any material amendment, refinancing, or replacement of the Credit Agreement to the extent it may affect (except for the establishment of Permitted Liens), or any receivables financing, factoring or sale arrangements with other parties, credit institutions affecting, the ORIGINATOR and security interests relating to Receivables, Related Assets, the Pledged Account or other property pledged to PURCHASER hereunder;
- (d) the occurrence of any other matter or development that has had or could reasonably be expected to have a Material Adverse Effect; and
- (e) written notice of the occurrence of any Event of Default.

22.3 The ORIGINATOR will promptly, and in any event within two (2) Business Days, inform PURCHASER of any circumstances of which it may become aware concerning the risk of a Debtor of being Unable to Pay debts as and when they fall due.

22.4 The ORIGINATOR shall promptly provide PURCHASER with all information and documents necessary for, or reasonably requested by, PURCHASER to perform its obligations under any Anti-Money-Laundering Law and to promptly inform PURCHASER of any relevant changes during the course of the business relationship.

23. External Audit, Declaration of Consent

PURCHASER and its agents shall be entitled to perform twice a year a regular external audit at the ORIGINATOR's business premises during customary business hours.

However, PURCHASER is entitled to perform at any time an extraordinary external audit at the ORIGINATOR's business premises if it has reasonable grounds to believe that the ORIGINATOR has violated in any material respect its obligations under this Agreement.

In connection with any such audit, PURCHASER and its agents shall be entitled to review and make copies of all books, records and other documents of the ORIGINATOR relating to the Receivables. The ORIGINATOR shall cooperate with PURCHASER and its agents in good faith and provide PURCHASER or such agents with such information as PURCHASER or such agents shall reasonably request to effectuate the foregoing.

PURCHASER's right to receive information shall also include the right to receive information with respect to the Receivables from a tax advisor, certified public accountant, auditor or any other person who keeps the ORIGINATOR's accounts or prepares, establishes or audits the annual financial statements for the ORIGINATOR. The ORIGINATOR hereby releases such persons vis-à-vis PURCHASER from their professional duty of confidentiality.

PURCHASER's right to receive information shall also include the right to obtain information (e.g., regarding security interests in or payments to Receivables as well as the PURCHASER's creditworthiness) from the credit institutions and financial service providers, which work together with the PURCHASER. For this purpose, the ORIGINATOR hereby releases such credit institutions and financial service providers from the banking secrecy and other applicable non-disclosure obligations in respect of the PURCHASER. The ORIGINATOR is obliged to make any further declarations to credit institutions and financial service providers which may be required for this purpose.

24. Arrangements in Debtor Agreements

The ORIGINATOR shall use its commercially reasonable efforts to cause and shall provide PURCHASER with reasonable evidence that its agreements with any Debtors, in particular its general terms and conditions, contain the following terms:

- (a) Terms and conditions of any Debtor which are in conflict with the ORIGINATOR's terms and conditions shall have no effect.
- (b) The ORIGINATOR has the right to freely assign its Receivables and their Related Assets against the relevant Debtor to a third party, and (subject to the provisions of Part 4 of Article 9 of the UCC) such third-party can enforce such Receivables and their Related Assets against the relevant Debtor, without consent or other limitation or encumbrance.
- (c) The contract giving rise to any Receivable shall be governed by and interpreted in accordance with the law of one of the United States.
- (d) To the extent permitted by applicable law, any set-off, potential set-off, contra-accounts or other rights of Debtors (other than defenses arising under the terms of an agreement between a Debtor and the ORIGINATOR in relation to a Receivable and any defense or claim in recoupment arising from the transaction that gave rise to the contract) against ORIGINATOR or its assigns are waived.
- (e) Payment by the Debtor is to be made in an Acceptable Currency.

25. Set-Off, Settlement, Clearing of Settlement Account

25.1 PURCHASER may (and is hereby authorized by the ORIGINATOR to), at any time, set-off, appropriate and apply (without presentment, demand, protest or other notice, the right to which is hereby expressly waived), any and all deposits, indebtedness or other obligations held or owing by PURCHASER with respect to Purchased Receivables, including any payment of the purchase price for Purchased Receivables and any balance in any Pledged Account with respect to Purchased Receivables against amounts then due and payable by the ORIGINATOR hereunder; provided that, for the avoidance of doubt, it is understood and agreed that PURCHASER may not set-off, appropriate or apply any such deposits, indebtedness or other obligations with respect to Receivables other than Purchased Receivables or to take recourse for its Bad Debt Coverage obligation. PURCHASER shall not be required to exercise any of its rights under this clause which shall be without prejudice to and in addition to any right of set-off or other similar right to which PURCHASER may at any time be entitled. Where any amounts due by PURCHASER to the ORIGINATOR, including those prospectively and contingently due, cannot immediately be ascertained, PURCHASER may make a reasonable estimate thereof.

25.2 Any amounts owing to ORIGINATOR and available to be transferred to ORIGINATOR, whether in the Settlement Account or any other account, shall be paid to ORIGINATOR automatically on each Business Day a purchase of Receivables takes place via wire transfer, ACH or any other means acceptable to PURCHASER and ORIGINATOR. Without limiting and in addition to ORIGINATOR's rights in the foregoing sentence, (i) PURCHASER also may, at its option, on any Business Day, transfer any balance in the Settlement Account in favor of the ORIGINATOR to the Originator Payment Account via wire transfer, ACH or any other means acceptable to PURCHASER and ORIGINATOR, and (ii) PURCHASER shall transfer any such balance at any time upon two (2) Business Days' written request by the ORIGINATOR.

25.3 If on any Business Day, the Settlement Account has a balance in favor of PURCHASER, PURCHASER may, at its option, (i) demand repayment of such deficiency from the ORIGINATOR, in which case the ORIGINATOR shall immediately repay such deficiency to PURCHASER in immediately available funds, (ii) net any such balance from the purchase price of future Receivables and their Related Assets to be sold hereunder and/or (iii) exercise its set-off rights under clause 25.1.

25.4 Unless expressly agreed otherwise, all obligations of the ORIGINATOR to PURCHASER arising from this Agreement, including without limitation, all obligations for fees, expense reimbursement and indemnities, will be due and owing immediately.

26. Counterclaims

The ORIGINATOR shall use reasonably promptly inform PURCHASER upon receiving notice from a Debtor of an actual Counterclaim made by such debt, and otherwise shall use commercially reasonable efforts to keep PURCHASER continuously informed about agreements with Debtors from which Counterclaims may arise. Such agreements do not cause the Receivables to be non-Eligible if the Counterclaims have been secured in accordance with the following terms.

PURCHASER shall be entitled to establish by written notice to the ORIGINATOR (which may be included in the Report) a reserve or (at its choice) demand security deposits from the ORIGINATOR in the anticipated amount of the Counterclaims. The ORIGINATOR shall be entitled to provide a security deposit in an amount and in a form reasonably satisfactory to PURCHASER in order to discharge a reserve at any time. When determining the anticipated amount of the Counterclaims, future Counterclaims shall also be considered. These are claims that are certain or likely to arise in the future, but which amount and/or time of origination is still uncertain. To the extent that the determination of such claims depends on future events (e.g., development of sales), the amount shall be determined by way of a good faith estimate made by PURCHASER, in the absence of other indicators on the basis of historical data.

PURCHASER shall determine the amount of Counterclaims in its commercially reasonable discretion on a monthly basis, by the end of each month at the latest or, to the extent Counterclaims result

from the sales of goods or services by Debtors to the ORIGINATOR, on a weekly basis, by the end of the week at the latest.

Within 10 Business Days of the end of each month, the ORIGINATOR shall provide a written report to PURCHASER setting forth the amount of Counterclaims as of the last day of the preceding month. However, to the extent Counterclaims result from the sales of goods or services by Debtors to the ORIGINATOR, the ORIGINATOR shall provide a written report within 1 Business Day of the end of each week setting forth the amount of the respective Counterclaims as of the last day of the preceding week.

PURCHASER shall by written notice to the ORIGINATOR (which may be included in the Report) establish a Counterclaim reserve by debiting the Settlement Account and crediting a Special Blocked Account by the relevant amount. If the anticipated amount of the Counterclaims is reduced, the Special Blocked Account will be debited by such reduction and a respective credit will be booked on the Settlement Account.

Security deposits will be provided by payment by the ORIGINATOR to PURCHASER, whereby the amount will be credited to the Special Blocked Account and any dissolution will be debited on the Special Blocked Account and credited on the Settlement Account.

The reserve and the security deposit shall protect PURCHASER against set-offs or settlements by Debtors with Counterclaims, but shall not protect PURCHASER against any Bad Debt Case. To the extent that such claims are legally and validly raised, PURCHASER is entitled to receive the relevant amounts as if they were Debtors' payments.

27. Tax- Gross-up and Tax Indemnity

27.1 All payments made or to be made by the ORIGINATOR under this Agreement shall be made in full without any deduction, withholding, set-off or counterclaim on account of any Taxes other than Excluded Taxes. If the ORIGINATOR is compelled by law to make any deduction or withholding, then it shall account for the same to the relevant authority as and when required by law, shall pay to PURCHASER all necessary additional amounts to ensure receipt and retention (free from any liability) by PURCHASER of the full amount which it would have received had the payment not been subject to the deduction, withholding, set-off or counterclaim and shall promptly provide to PURCHASER a certificate of deduction and such tax receipts and other documents as PURCHASER may require.

27.2 If any amount of, or in respect or on account of, Tax is or may be directly or indirectly imposed on or suffered by PURCHASER as a consequence of or in connection with any transaction governed by or carried out pursuant to the terms of this Agreement (other than any Excluded Tax), the ORIGINATOR shall (within three Business Days of demand by PURCHASER) indemnify PURCHASER in respect of the same.

27.3 This clause 27 shall survive the termination of this Agreement.

28. Indemnity

Without limiting any other rights which the Originator Indemnified Parties (as defined below) may have hereunder or under applicable law, the ORIGINATOR hereby agrees to indemnify PURCHASER and its successors, transferees and assigns and all officers, directors, shareholders, controlling persons, employees, counsel and other agents of any of the foregoing (collectively, "**Originator Indemnified Parties**") from and against any and all damages, losses, claims, liabilities, costs and expenses, including reasonable outside attorneys' fees and disbursements (all of the foregoing being collectively referred to as "**Originator Indemnified Amounts**") awarded against or incurred by any of them in any action or proceeding between the ORIGINATOR and any of the Originator Indemnified Parties or between any of the Originator Indemnified Parties and any third party or otherwise arising out of or as a result of this Agreement, any commitment or obligation of PURCHASER hereunder, the ownership or maintenance, either directly or indirectly, by PURCHASER or any other Originator Indemnified Party of any interest in any Receivable or

its Related Assets or any of the other transactions contemplated hereby or thereby, excluding, however, the following (“**Excluded Amounts**”) (i) Originator Indemnified Amounts to the extent resulting from gross negligence or wilful misconduct on the part of such Originator Indemnified Party as determined by a final non-appealable judgment by a court of competent jurisdiction, (ii) recourse for PURCHASER’s Bad Debt Coverage obligation, (iii) the limited collection expenses which, pursuant to clause 17.3, are for the account of PURCHASER and (iv) Originator Indemnified Amounts relating to any Receivable that is not a Purchased Receivable unless such Originator Indemnified Amounts are costs, expenses or disbursements paid or payable to third parties. Without limiting the generality of the foregoing, the ORIGINATOR shall indemnify each Originator Indemnified Party for Originator Indemnified Amounts (excluding any Excluded Amounts) relating to or resulting from:

- (a) any representation or warranty made by the ORIGINATOR or any officer of the ORIGINATOR under or in connection with this Agreement or any information or report delivered by the ORIGINATOR pursuant hereto, which shall have been false or incorrect in any material respect when made or deemed made;
- (b) the failure by the ORIGINATOR to comply in any material respect with any applicable law with respect to any Receivable or the related contract, or the nonconformity of any Receivable or the related contract with any such applicable law;
- (c) any action or failure to act by ORIGINATOR that results in the failure to vest and maintain vested in PURCHASER a sole ownership interest in the Purchased Receivables and their Related Assets free and clear of any ownership interest, lien, security interest or other encumbrance (other than in favor of PURCHASER under this Agreement);
- (d) any action or failure to act by ORIGINATOR that results in the failure to vest and maintain vested in PURCHASER a first priority, perfected security interest in the Receivables not constituting Purchased Receivables and their Related Assets free and clear of any ownership interest, lien, security interest or other encumbrance;
- (e) [Reserved];
- (f) any dispute, claim, offset or defense (other than discharge in bankruptcy) of the Debtor to the payment of any Receivable (including a defense based on such Receivable or the related contract not being the legal, valid and binding obligation of such Debtor enforceable against it in accordance with its terms), or any other claim resulting from the sale of goods or services related to such Receivable or the furnishing or failure to furnish such goods or services (including, without limitation, any Dilution), but excluding (a) any Bad Debt Coverage, or (B) any dispute, claim, offset or defense arising from the action of, or the failure to act by, PURCHASER during such time as PURCHASER is exercising enforcement and collection rights with respect to Receivables; unless ORIGINATOR gave its prior written consent to the action of PURCHASER;
- (g) any products liability claim or personal injury or property damage suit or other similar or related claim or action of whatever sort arising out of or in connection with goods or services relating to or which are the subject of any Receivable;
- (h) the transfer of an interest in any Purchased Receivable to PURCHASER other than a Purchased Receivable which is Eligible;
- (i) the failure by the ORIGINATOR to comply with any term, provision or covenant contained in this Agreement or to perform any of its respective duties under the Receivables or related contracts;
- (j) the failure of the ORIGINATOR to pay when due any sales, excise or personal property Taxes payable in connection with any of the Receivables;

- (k) the commingling by the ORIGINATOR of Collections of Receivables at any time with other funds;
- (l) any investigation, litigation or proceeding related to this Agreement, the use of proceeds of purchases by the ORIGINATOR, the ownership of the Receivables or the Related Assets;
- (m) failure of any depository bank to remit any amounts held in the Pledged Accounts or any related lock-boxes pursuant to the instructions of PURCHASER whether by reason of the exercise of set off rights or otherwise;
- (n) any inability to obtain any judgment in or utilize the court or other adjudication system of, any state or commonwealth in which a Debtor may be located as a result of the failure of the ORIGINATOR to qualify to do business or file any notice of business activity report or any similar report;
- (o) any attempt by any person or entity to void, rescind or set-aside any transfer by the ORIGINATOR to PURCHASER of any Receivable or Related Asset under statutory provisions or common law or equitable action, including any provision of any insolvency law;
- (p) any action taken by the ORIGINATOR in the enforcement or collection of any Receivable other than (I) such time as PURCHASER is exercising enforcement and collection rights with respect to Receivables, or (II) any enforcement or collection action with respect to Purchased Receivables in accordance with Section 17.3; or
- (q) [Reserved].

This clause 28 shall survive the termination of this Agreement.

29. Fees and Expenses

29.1 The amount of certain fees is set out in Schedule 1 (Terms and Conditions).

29.2 The ORIGINATOR will bear all customary account keeping and payment transaction fees (including, without limitation, fees for wire transfer, ACH transfer and other similar services), as well as any expenses that may be incurred by PURCHASER acting upon its instructions or in its presumed interest.

29.3 In addition to and not in limitation of the foregoing, the ORIGINATOR shall promptly on demand pay PURCHASER (a) all costs and expenses of PURCHASER incurred in connection with PURCHASER'S due diligence of the transactions contemplated by this Agreement and (b) all external legal fees and expenses charged by Mayer Brown LLP as legal adviser to PURCHASER in connection with the negotiation, preparation, printing, execution and perfection of this Agreement or any other document in connection with this Agreement, irrespective of whether or not this Agreement becomes effective pursuant to clause 12.

The ORIGINATOR also agrees to pay on demand (a) all reasonable and documented costs incurred by PURCHASER in connection with the enforcement of this Agreement (including reasonable fees and expenses of its agents, consultants, attorneys and other advisors to PURCHASER incurred in connection with any of the foregoing or in advising PURCHASER as to its respective rights and remedies under this Agreement) and (b) all stamp and other Taxes (except for Excluded Taxes) and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement.

Further, if the ORIGINATOR requests an amendment, waiver or consent of this Agreement or any other document delivered in connection herewith, the ORIGINATOR shall, promptly on demand, reimburse PURCHASER for the amount of all reasonable and documented costs (including reasonable fees and expenses of its agents, consultants, attorneys and other advisors to PURCHASER) incurred by it in connection with the negotiation, preparation and execution of such amendment, waiver or consent.

However, the ORIGINATOR shall only be obligated to pay external legal fees and expenses if a respective fee estimate has been provided by PURCHASER and the ORIGINATOR has agreed to it, which agreement shall not be unreasonably withheld, conditioned or delayed.

Further, (i) if any amendment, waiver or consent under the Credit Agreement is entered into or issued, (ii) the Credit Agreement is refinanced, or (iii) if there is a corporate restructuring affecting the ORIGINATOR, the ORIGINATOR shall, promptly upon demand, reimburse PURCHASER for the amount of all reasonable and documented costs (including reasonable fees and expenses of its agents, consultants, attorneys and other advisors to PURCHASER) incurred by it in connection with any related amendments to this Agreement or any documentation in connection with this Agreement to the extent legally necessary in order to uphold Purchaser's rights agreed under this Agreement. However, the ORIGINATOR shall only be obligated to pay external legal fees and expenses if a respective fee estimate has been provided by PURCHASER and the ORIGINATOR has agreed to it, which agreement shall not be unreasonably withheld, conditioned or delayed.

29.4 This clause 29 shall survive the termination of this Agreement.

30. Successors and Assigns.

This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; provided, however, that the ORIGINATOR may not sell, assign or otherwise transfer this Agreement or any of its rights or obligations hereunder without PURCHASER's prior written consent, which may be given or withheld in PURCHASER's absolute discretion. PURCHASER shall have the right without the consent of or notice to the ORIGINATOR to sell, assign, transfer, negotiate, or grant participations or security interests in all or any part of, or any interest in, (a) PURCHASER's obligations, rights and benefits hereunder or (b) the Purchased Receivables.

31. Commencement, Expiration, Termination, Remedies Upon Default

31.1 The Commencement Date and Expiration Date of this Agreement are set out in Schedule 1 (Terms and Conditions).

31.2 Unless PURCHASER's commitment to purchase Receivables in accordance with this Agreement is terminated, or unless ORIGINATOR elects to terminate this Agreement, in each case with three months' written notice prior to its scheduled Expiration Date, it shall be extended by another year. The same shall apply to any subsequent periods. Any such termination notice may be given by either the ORIGINATOR or PURCHASER and must be made in writing.

31.3 Upon termination of PURCHASER's commitment to purchase Receivables, all purchase offers, which have not yet been accepted, shall expire. All pending transactions shall be unwound in accordance with this Agreement.

This Agreement shall terminate when all of the following conditions are satisfied: (i) PURCHASER's commitment to purchase Receivables is terminated in accordance with the terms of this Agreement, (ii) all of the ORIGINATOR's financial obligations under this Agreement are repaid in full in cash and (iii) the outstanding principal balance of all Purchased Receivables is collected and received by PURCHASER. Upon such termination, PURCHASER will (i) release its security interest in any collateral and (ii) turn over to the ORIGINATOR any payments received into any Purchaser Account (other than Collections on Purchased Receivables).

31.4 Upon the occurrence and during the continuation of an Event of Default, PURCHASER may, in its discretion, terminate its obligation to purchase any Receivables and their Related Assets not already purchased at that time. Any such election must be made in writing and shall be effective immediately. Notwithstanding the foregoing, upon the occurrence of any Event of Default of the type described in clause (d) of the definition thereof in respect of the ORIGINATOR, PURCHASER shall automatically be deemed

to have made such election, which election shall be effective immediately without any need for notice or other action of any kind.

Upon the occurrence and during the continuation of an Event of Default, PURCHASER shall have, in addition to all other rights and remedies under this Agreement or otherwise, all other rights and remedies provided under the UCC of the applicable jurisdiction and other applicable laws, all of which rights shall be cumulative.

32. Further Elements of this Agreement

- (a) Schedule 1 (Terms and Conditions)

In the event of any discrepancies between Schedule 1 (Terms and Conditions) and this Agreement, the provisions of Schedule 1 (Terms and Conditions) shall prevail.

- (b) Schedule 2 (Transfer of Data)

- (c) Schedule 3 (Conditions Precedent)

Schedule 3 sets out certain conditions precedent referred to in clause 12 of this Agreement.

33. Governing Law, Jurisdiction

33.1 This Agreement shall be governed by the laws of the State of New York, without giving effect to conflicts of law principles (other than Section 5-1401 and 5-1402 of the General Obligations Law of the State of New York). This Agreement is not governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded.

33.2 Each of the parties hereto irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or federal court of the United States sitting in the Borough of Manhattan, New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the extent permitted by law, in such federal court. A final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

33.3 Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court located in the Borough of Manhattan.

33.4 Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of inconvenient forum to the maintenance of such action or proceeding in any such court.

34. Severability Clause

If any provisions of this Agreement or the schedules thereto are or become invalid in full or in part, the validity of the remaining provisions will not be affected thereby. The invalid provision shall be replaced by the provision which is valid and effective and comes closest to the economic intention of the parties.

If any sale or assignment of any portion of a Purchased Receivable or its Related Assets should be or become ineffective, PURCHASER and the ORIGINATOR will treat each other as if the relevant transfers were effective and such parties will take such actions as may be appropriate to make sure transfers effective. If for any reason any grant of a security interest in this Agreement shall become

ineffective, PURCHASER and the ORIGINATOR will treat each other as if the relevant grants were effective and such parties will take such actions as may be appropriate to make sure grants effective and perfected.

35. No Waiver

No failure to exercise, nor any delay in exercising, on the part of PURCHASER, any remedy or other right under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any remedy or other right prevent any further or other exercise or the exercise of any other right. The remedies and other rights provided in this Agreement are cumulative and not exclusive of any remedies and other rights provided by law.

36. Counterparts

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement. Delivery by facsimile of an executed signature page of this Agreement shall be effective as delivery of an original executed counterpart hereof.

37. Information on Accounts

The PURCHASER undertakes to provide the ORIGINATOR without being requested to do so on an ongoing basis and without undue delay about the bookings made to the Accounts and other relevant information by delivery of the Report.

38. Further Assurances and Conditions Subsequent

The ORIGINATOR and PURCHASER agree to do and perform, from time to time, any and all acts and to execute any and all further instruments required or reasonably requested by the other party to more fully effect the purposes of this *Agreement*.

39. Notices

39.1 All formal notices delivered under this Agreement or any related agreement shall be in writing. As used in this Agreement, the term "written notice" shall include notices sent electronically, including any attachment to an e-mail or transmissions via SFTP-Servers (by way of example but not limitation, a .pdf file, or a MS Excel or MS Word file).

39.2 All written notices or other written communications from PURCHASER to the ORIGINATOR will be deemed to be received by the ORIGINATOR:

- (a) When delivered to the ORIGINATOR's address specified in Schedule 3 (which such address may be modified by ORIGINATOR from time to time with ten (10) Business Days prior notice);
- (b) When sent by facsimile, electronic mail or message or other electronic equipment (e.g., SFTP-Server) to the applicable number or address specified in Schedule 3 (which such address may be modified by ORIGINATOR from time to time with ten (10) Business Days prior notice); or
- (c) [Reserved].

whichever is the earliest, notwithstanding return through the post (in the case of a mailing), or the dissolution of the ORIGINATOR.

40. Definitions

Acceptable Currency: Any currency set out in Schedule 1 (Terms and Conditions).

Accounts: The Accounts maintained pursuant to this Agreement: Factoring Account, Incoming Payment Settlement Account, Purchase Price Reserve Account, Special Blocked Account, Settlement Account, Special Account, Special Purchase Prices Reserve Account and Special Settlement Account.

Affiliate: With respect to any person or entity, a second person or entity which, directly or indirectly, controls or is controlled by or is under common control with such first person or entity, or a second person or entity which beneficially owns or holds, directly or indirectly, 25% or more of any class of voting shares of such first person or entity, or a second person or entity in which 25% of any class of voting shares is beneficially owned or held directly or indirectly, by such first person or entity.

Agreement: This Receivables Sale Agreement as amended, supplemented or otherwise modified from time to time.

Anti-Money-Laundering Laws: Any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to the ORIGINATOR, PURCHASER and each of their Affiliates, related to terrorism financing or money laundering including any applicable provision of the USA PATRIOT Act and The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act," 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), and in each case, any analogous law of any jurisdiction other than the United States, in each case, as amended from time to time and any successors thereto.

Bad Debt Amount: Amount corresponding to the purchase price for the relevant Purchased Receivable which has become subject to a Bad Debt Case net of any payments made by the relevant Debtor in respect of the purchase price (which amounts are offset against the purchase price for calculating the applicable Bad Debt Amount). The balance shall be credited or debited, as the case may be, to the Settlement Account.

Bad Debt Case: Occurrence of an event referred to in clause 6.2.

Bad Debt Coverage: Obligation of PURCHASER to bear the Bad Debt Amount in the Bad Debt Case.

Business Days: All calendar days except for Saturdays, Sundays and any public holidays and bank holidays applicable in Mainz, Germany or in New York City.

Change of Control: Any transaction following which Mid-Ocean and/or Affiliates thereof shall cease to collectively (a) control or own a majority of the beneficial direct or indirect interest in ORIGINATOR or (b) have the right to elect a majority of the board of directors of the ORIGINATOR.

Collections: With respect to any Receivable: (a) all funds that are received by the ORIGINATOR, PURCHASER or any other person or entity on the ORIGINATOR's or PURCHASER's behalf in payment of any amounts owed in respect of such Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Debtor or any other person or entity directly or indirectly liable for the payment of such Receivable and available to be applied thereon), (b) all proceeds of all Related Assets with respect to such Receivable and (c) all other proceeds of such Receivable.

Collection Procedure: Procedure instigated to collect Receivables, including legal dunning procedures by external counsel, judicial court proceedings and foreclosure proceedings until the final settlement of the proceeding.

Commencement Date: The Commencement Date referred to in Schedule 1 (Terms and Conditions).

Control Agreement: An agreement in form and substance satisfactory to PURCHASER, among PURCHASER, the ORIGINATOR and the bank at which a Pledged Account is established, that provides, among other things, PURCHASER with exclusive control over, and a security interest in, such Pledged Account, the transfer of collected funds in the Pledged Account to PURCHASER and requires such bank to continue to deposit into such Pledged Accounts any items of payment received into any related lock-box; or such other terms as are acceptable to PURCHASER to account for any Permitted Liens on funds for non-Purchased Receivables that may from time to time be collected funds in the applicable Pledged Account.

Counterclaims: Claims of Debtors vis-à-vis the ORIGINATOR, which do not result in a direct reduction of individual Receivables, in particular claims based on a relevant period and/or the volume of sales (bonuses etc.), and claims arising from certain operations/events (marketing contributions, anniversary bonuses etc.) and claims in respect of sales of goods or services by Debtors to the ORIGINATOR.

Credit Agreement: Amended and Restated First Lien Credit Agreement dated as of April 3, 2020 among KIDKRAFT INTERMEDIATE HOLDINGS, LLC, as Holdings, KIDKRAFT, INC., as the Borrower, THE OTHER GUARANTORS PARTY THERETO FROM TIME TO TIME, ANTARES CAPITAL LP, as Administrative Agent and Collateral Agent, ANTARES HOLDINGS LP, as Swing Line Lender, BBVA USA, as L/C Issuer and THE OTHER LENDERS PARTY HERETO FROM TIME TO TIME, as such Credit Agreement may be amended, supplemented, modified, amended and restated, replaced or refinanced from time to time.

Debtor Limit: The maximum amount available to fund purchases of Receivables against a particular Debtor. The extent of its utilization is equal to the sum of all outstanding Purchased Receivables. Debtor Limits are established pursuant to clause 7.

Debtors: Those counterparties of, or other persons who owe amounts to, the ORIGINATOR under contracts pursuant to which the ORIGINATOR owes the delivery of goods and/or the rendering of services for which the relevant counterparty owes payment set out in Schedule 1 (Terms and Conditions) together with such other counterparties that may be agreed in writing between PURCHASER and the ORIGINATOR as being Debtors for the purposes of this Agreement. For purposes of this Agreement, a Debtor shall also include any guarantor or co-obligor of such person or entity for any Receivables that are the subject of this Agreement.

Dilution: A reduction in the outstanding principal balance of any Purchased Receivable attributable to credits, rebates, billing errors, sales or similar Taxes, cash discounts, volume discounts, allowances, disputes, set-offs, counterclaims, chargebacks, credits for returned or repossessed goods, sales and marketing discounts, warranties, any credit memos (whether applied or unapplied) and any other adjustments that are made in respect of Debtors, except any write-off in respect of a Bad Debt Case.

Directed Account: Either a Pledged Account or a Purchaser Account.

Disclosed Procedure: Purchase procedure in which the sale and assignment of (or, if applicable, security interest in) Receivables is disclosed to the Debtors.

Eligible: In respect of a Receivable, any Receivable that:

- (a) is a valid, current and a freely sellable and assignable "account" or "general intangible" within the meaning of Section 9-102 of the UCC as of the purchase date relating thereto, and is not evidenced by any instrument or chattel paper;
- (b) as of the date of purchase hereunder, (1) is payable in an amount not less than the amount identified by the ORIGINATOR in the applicable Receivables Notification and (2) the ORIGINATOR has no knowledge of any fact (including any defaults by the applicable Debtor

thereunder on any other Receivable) that causes it to expect that the entire outstanding principal amount of such Receivable on such date will not be paid in full when due;

- (c) is based on an actual and bona fide rendition of services or sale of goods by the ORIGINATOR in the ordinary course of its business that have been fully rendered or fully delivered and otherwise fully performed as of the purchase date relating thereto; payments thereon are not contingent upon the ORIGINATOR's fulfillment of any further obligation; and if arising out of the sale of services, such services have been accepted by the Debtor;
- (d) (1) no portion of which is in respect of any amount as to which the related Debtor is permitted to withhold payment until the occurrence of a specified event or condition (including "guaranteed" or "conditional" sales or any performance by the ORIGINATOR), (2) is not owed to the ORIGINATOR as a bailee or consignee for another person or entity and (3) is not issued under cash-in-advance or cash-on-account terms;
- (e) is payable in full on the due date with respect thereto and is not an installment receivable;
- (f) (i) as of the date of purchase hereunder, is not past due and (ii) has a due date less than or equal to 120 days from the date of issuance which due date was not extended after issue of the invoice relating to such Receivable;
- (g) arises under a contract governed by the law of one of the United States that is in full force and effect and constitutes the legal, valid and binding obligation of the related Debtor to pay such Receivable enforceable against such Debtor in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to and limiting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or in law);
- (h) together with the contract related thereto, does not contravene any law applicable thereto in any material respect (including laws relating to usury, consumer protection, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices, privacy, anti-money laundering and anti-terrorism);
- (i) is denominated and payable only in an Acceptable Currency in the United States;
- (j) as of the date of purchase hereunder, is not subject to a Bad Debt Case;
- (k) is not owed by the government of the United States, or any department, agency, public corporation, or instrumentality thereof, unless the Federal Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq. and 41 U.S.C. § 15 et seq.), and any other steps necessary to perfect the ownership interest and security interest of PURCHASER in such Receivable have been complied with to PURCHASER's satisfaction;
- (l) is net of, and not subject to, any contractual allowances, set-offs (including defenses arising out of violations of usury laws), counterclaims, side agreements, credits, deductible limitations, commissions, fees, or other discounts other than those offsets reflected in the calculation of the purchase price as of the purchase date relating thereto;
- (m) it is not owed by a member of the Group, a material creditor of the ORIGINATOR or by one or more individual consumers;
- (n) is not the subject of any action, suit, proceeding or dispute (whether actual, pending or threatened), setoff, counterclaim, defense, abatement, suspension, deferment, deductible, reduction or termination by the Debtor thereof;

- (o) is sold hereunder in good faith and without actual intent to hinder, delay or defraud present or future creditors of PURCHASER, ORIGINATOR or any of their Affiliates;
- (p) is not subject to a consent requirement by any third party to the sale or other transfer of such Receivable or its Related Assets or the grant of a security interest or other lien in such Receivable or its Related Assets other than consents previously obtained in writing by the ORIGINATOR and acceptable to PURCHASER;
- (q) upon becoming a Purchased Receivable, will not be subject to any ownership interest, lien, security interest or other encumbrance (except those granted in favor of PURCHASER under this Agreement); no effective financing statement or other instrument similar in effect covering such Receivable listing ORIGINATOR or a Group member as "Debtor" is on file in any recording office (except those filed in favor of PURCHASER relating to this Agreement and Permitted Liens provided such Permitted Liens shall ceased to be liens upon the Receivable becoming a Permitted Receivable), and no competing notice or notice inconsistent with the transactions contemplated in this Agreement remains in effect with respect to the applicable Debtor;
- (r) is not subject to value added Tax or any similar charge by any Official Body in any jurisdiction;
- (s) the revenue with respect to which has been recognized by the ORIGINATOR in accordance with GAAP;
- (t) arises from a contract that is not subject to a confidentiality provision or similar covenant of non-disclosure that would restrict the ability of PURCHASER to fully exercise or enforce its rights under this Agreement;
- (u) the invoice for which has been issued to the Debtor within 5 days after the relevant goods or services have been delivered by the ORIGINATOR; and
- (v) the invoice for which is offered to the PURCHASER not later than the time period specified in clause 2.2; provided that this condition shall not be applicable in the case of the initial Utilization hereunder.

In addition to the criteria set forth in the preceding clauses, in order for a Receivable to qualify as Eligible, (a) such Receivable shall be evidenced by paper or electronic invoices or data files in form and substance satisfactory to PURCHASER, (b) the invoices or data files, as applicable, and the other information provided by the ORIGINATOR with respect to each such Receivable must be complete and correct and all documents, attestations, contracts and agreements relating thereto that have been delivered to PURCHASER are true and correct, (c) the ORIGINATOR shall have billed the applicable Debtor and delivered to such Debtor and invoice and all requested supporting claim documents with respect to such Receivable, (d) no amounts with respect to such Receivable shall have been paid as of the date and time of the purchase of such Receivable and (e) all information set forth in the invoice or data files, as applicable, and supporting claim documents with respect to such Receivable shall be true, complete and correct.

Event of Default: The occurrence of any one or more of the following events:

- (w) the ORIGINATOR shall fail to make any payment or deposit to be made by it hereunder due hereunder and such failure shall continue for five Business Days following the earlier of (1) PURCHASER giving written notice (through other means than the Report) to the ORIGINATOR of such failure and (2) the ORIGINATOR obtains actual knowledge of such failure; or
- (x) any representation, warranty, certification or statement made or deemed made by the ORIGINATOR in this Agreement or in any other information, report or document delivered pursuant hereto shall prove to have been incorrect in any material respect when made or deemed made or delivered; or

- (y) the ORIGINATOR shall default in the in the performance of its obligations or covenants to be performed or observed under any clause(s) 5, 11, 14, 17 and 26, and any such failure shall continue for five (5) Business Days following the earlier of (1) PURCHASER giving written notice (through other means than the Report) to the ORIGINATOR of such failure and (2) the ORIGINATOR obtains actual knowledge of such failure; or
- (z) the ORIGINATOR shall default in the performance of any obligation or covenant (other than as set forth above in clauses (a), (b) or (c)) to be performed or observed under any other provision of this Agreement and such failure shall continue for twenty (20) Business Days following the earlier of (1) PURCHASER giving written notice (through other means than the Report) to the ORIGINATOR of such failure and (2) the ORIGINATOR obtains actual knowledge of such failure; or
- (aa) any Insolvency Event shall occur with respect to the ORIGINATOR; or
- (bb) PURCHASER shall for any reason fail or cease to have a valid and enforceable sole ownership interest or perfected first priority security interest, as applicable, in the Purchased Receivables and their Related Assets, free and clear of any other ownership interest, security interest, lien or other encumbrance; or
- (cc) PURCHASER shall for any reason fail or cease to have a valid and enforceable perfected first priority security interest in the Receivables (until such time as any Receivable becomes a Purchased Receivable) and their Related Assets, free and clear of any other ownership interest, security interest, lien or other encumbrance except for Permitted Liens; or
- (dd) occurrence of an event of default under the Credit Agreement after all applicable notice and cure periods have lapsed; or
- (ee) [Reserved]; or
- (ff) there shall exist any judgment, decree, levy, attachment, garnishment or other process, or any lien, security interest or other encumbrance shall be filed against the ORIGINATOR involving in the aggregate a liability in excess of \$ 5,000,000 (not paid or to the extent not covered by a reputable and solvent insurance company which has not disclaimed coverage) and such judgment, decree, levy, attachment, garnishment or other process or any lien, security interest or other encumbrance either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 30 consecutive days; or
- (gg) [Reserved]; or
- (hh) a Change of Control shall occur unless approved in writing in advance by PURCHASER; or
- (ii) Any material provision of this Agreement shall cease to be in full force and effect or the ORIGINATOR shall so state in writing; or
- (jj) ORIGINATOR or any officer thereof engages in any act of fraud, embezzlement, misappropriation or theft in connection with the Receivables, the Related Assets or the Collections (it being understood for the avoidance of doubt that any Event of Default occurring under this subclause (l) shall continue to exist unless PURCHASER, in its discretion, expressly waives such Event of Default in writing); or
- (kk) An event or condition which, either individually or together with any related events or conditions, has caused a Material Adverse Effect.

Exchange Act: The Securities Exchange Act of 1934, as amended.

Excluded Taxes: With respect to any payment made or to be made by the ORIGINATOR under this Agreement, (a) income or franchise taxes imposed on (or measured by) the net income of PURCHASER, (b) any branch profits taxes imposed by the United States of America on PURCHASER and (c) any deduction, withholding, setoff or counterclaim on account of Taxes that is attributable to PURCHASER's failure to furnish, at the ORIGINATOR's request and thereafter at the times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law as will permit such payment to be made without withholding or at a reduced rate (but only to the extent PURCHASER is entitled to furnish such documentation under applicable law).

Expiration Date: The Expiration Date referred to in Schedule 1 (Terms and Conditions).

Factoring Account: Account on which the Purchased Receivables are booked in their aggregate amount.

Factoring Commission: The percentage rate set out in Schedule 1 (Terms and Conditions).

Format Specification: PURCHASER's commercially reasonable requirements, which PURCHASER shall deliver to ORIGINATOR, for information to be provided by the ORIGINATOR in electronic form about invoices, credit notes, payments or open items.

Full-Service-Purchase: Purchase procedure in which the accounts receivable bookkeeping and dunning procedure are performed by PURCHASER.

GAAP: Generally accepted accounting principles.

Governmental Authority: Any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government in any jurisdiction (including any supra-national bodies such as the European Union or the European Central Bank).

Group: KidKraft Intermediate Holdings, LLC, 4630 Olin Road Dallas, TX 75244, United States of America, and the Customer Group (as defined on Schedule III) together with any wholly owned Subsidiary of any member of the Customer Group.

Incoming Payment Settlement Account: Account on which in the Inhouse-Purchase incoming payments are booked by interim posting until the Reconciliation Process has been performed (see clause 13.2).

Inhouse-Purchase: Purchase procedure in which the accounts receivable bookkeeping and dunning procedure are performed by the ORIGINATOR as servicer for PURCHASER.

Insolvency Event: With respect to any person or entity, such person or entity shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against such person or entity seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 30 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or such person or entity shall take any action to authorize any of the actions set forth above in this definition.

Material Adverse Effect: Any event or condition which would have a material adverse effect on (a) the value, validity, collectability or enforceability of the Purchased Receivables by the ORIGINATOR or PURCHASER, (b) the condition (financial or otherwise), businesses or properties of the ORIGINATOR, (c) the ability of the ORIGINATOR to perform its respective obligations under this Agreement, or (d) the rights or interests of PURCHASER under this Agreement.

Maximum Commitment: The amount which the Utilization may not exceed. The amount of the Maximum Commitment is set out in Schedule 1 (Terms and Conditions).

Mid-Ocean: Any of (i) MidOcean Partners IV, L.P. and (ii) any of its Affiliates, and funds or partnerships managed or advised by any of them or any of its respective Affiliates but not including, however, any portfolio company of any of the foregoing.

Monthly Account Statement: Written summary of the balances of all Accounts as of the end of each calendar month.

Nominal Amount: The final amount set out in the invoice for the relevant Receivable.

Notification of Dispute: Notification by the ORIGINATOR or the Debtor to PURCHASER that the Debtor claims the existence of an event or condition which would cause a Receivable not to be Eligible in accordance with the definition thereof or subject to Dilution.

OFAC: The U.S. Treasury Department Office of Foreign Assets Control (or any successor office or agency).

Official Body: Any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of any such government or political subdivision, or any court, tribunal, grand jury or arbitrator, or any accounting board or authority (whether or not a part of government) which is responsible for the establishment or interpretation of national or international accounting principles, in each case whether foreign or domestic.

Open Items File: List of all Receivables which are existing and unpaid at the time when the list is compiled.

Originator Payment Account: The Originator Payment Account referred to in Schedule 1 (Terms and Conditions).

Partial Termination: An election by PURCHASER to terminate the Inhouse-Purchase, the Undisclosed Procedure or both in accordance with clause 15.1.

Permitted Liens: Any liens or security interests on Receivables or Related Assets granted under or pursuant to the Credit Agreement, including any refinancing, replacement, extension, or other modification thereof; provided, however, such Permitted Liens cease to be liens upon any Receivable becoming a Purchased Receivable; provided, further, ORIGINATOR and PURCHASER acknowledge and agree that such liens may continue in the purchase price received by ORIGINATOR as proceeds derived from the sale of Receivables and Related Assets to the Purchaser.

Person: Any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

Pledged Accounts: The bank accounts referred to as Pledged Accounts in Schedule 1 (Terms and Conditions).

Purchase Price Adjustment: With respect to any Purchased Receivable, the product of (a) the Factoring Commission applicable to such Purchased Receivable and (b) the Nominal Amount of such Purchased Receivable.

Purchase Price Reserve: Amount corresponding to the percentage rate set out in Schedule 1 (Terms and Conditions) of the Nominal Amount.

Purchase Price Reserve Account: Account on which the Purchase Price Reserve is booked (see clauses 4.1 and 4.2).

Purchased Receivable: Any Receivable which has been purchased or purported to be purchased by PURCHASER under this Agreement.

Purchaser Accounts: The bank accounts of PURCHASER referred to as Purchaser Accounts in Schedule 1 (Terms and Conditions).

Receivable: Any existing or future right to payment of a monetary obligation, whether or not earned by performance, owed to the ORIGINATOR by a Debtor, whether constituting an account, instrument, document, contract right, general intangible, chattel paper or payment intangible, in each instance solely as an account receivable for and arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto. Any such right to payment arising from any one transaction, including, without limitation, any such right to payment represented by an individual invoice, contract or other agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction.

Receivables Notification: Notification of a certain Receivable by the ORIGINATOR to PURCHASER. Several notifications of Receivables can be combined in one Receivables Notification.

Reconciliation Process: Reconciliation of PURCHASER's Open Items File with the Open Items File provided by the ORIGINATOR.

Related Assets: With respect to any Receivable:

- (a) all of the ORIGINATOR's interest in any goods (including returned goods) and documentation of title evidencing the shipment or storage of any goods (including returned goods), relating to any sale giving rise to such Receivable;
- (b) all other ownership and inchoate rights in the underlying assets with respect to such Receivable that the ORIGINATOR may have or acquire;
- (c) in the event of a sale by consignment, any claims against the consignee;
- (d) all instruments and chattel paper that may evidence such Receivable;
- (e) all of the ORIGINATOR's rights, interests and claims against third parties relating to such Receivables including, without limitation, shippers and carriers;
- (f) all security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the contract related to such Receivable or otherwise, together with all financing statements or other similar documents describing any collateral securing such Receivable;
- (g) all Collections thereon including, without limitation, all Tax refunds;

- (h) the contract giving rise to such Receivable and all guaranties, insurance and other agreements or arrangements of whatever character from time to time supporting or securing payment of such Receivable whether pursuant to such contract or otherwise;
- (i) all books, records and other information (including, without limitation, computer programs, tapes, discs, punch cards, data processing software and related property and rights) relating to such Receivable and the related Debtor; and
- (j) all proceeds of any of the foregoing.

Report: Report created by the PURCHASER showing, *inter alia*, the balance of each Account.

Repurchase Price: The Nominal Amount of a Purchased Receivable (without duplication, net of any Dilution existing at the time of PURCHASER's purchase of the relevant Repurchased Receivable and that reduced the purchase price paid to ORIGINATOR for such Repurchased Receivable) minus all Collections on such receivable actually received and applied by PURCHASER minus the Purchase Price Adjustment for such Purchased Receivable that has been previously paid by the ORIGINATOR to the PURCHASER.

Restricted Person: A person or entity that (i) is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 issued by the President of the United States; (ii) a person that is named as a "specially designated national and blocked person" on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list or similarly named by any similar foreign Official Body; (iii) an Official Body, or a person or entity resident in a country that is subject to a sanctions program identified on the lists maintained by OFAC; or (iv) a person or entity that derives more than 10% of its assets or operating income from investments in or transactions with any such country, agency, organization or person.

Settlement Account: Account on which all claims of the ORIGINATOR vis-à-vis PURCHASER (e.g., purchase price payments for Purchased Receivables, including Purchase Price Reserves that have been released, Debtor's payments in respect of Receivables which have not been purchased) and claims of PURCHASER against the ORIGINATOR (e.g., commission claims, claims for reimbursement based on performance defaults) as well as disbursements to the ORIGINATOR are booked and offset against each other.

Special Account: Account on which the Receivables which have not been purchased are booked.

Special Blocked Account: Account showing the anticipated amount of Counterclaims (see clause 26).

Special Purchase Price Reserve: Reserve established as the result of a Notification of Dispute which shall not exceed, however, (i) the part of the purchase price that was previously credited, or (ii) the amount of the related Purchased Receivable that is disputed by the Debtor or the amount of the related Dilution, as the case may be.

Special Purchase Price Reserve Account: Account on which Special Purchase Price Reserves resulting from Notifications of Disputes are booked (see clause 4.1).

Special Settlement Account: Technical offset account to the Special Account.

Subsidiary: With respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50.0% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons

performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of such Person or a combination thereof; provided that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

Tax: Any tax, assessment, levy, import duty, or other governmental charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

UCC: The Uniform Commercial Code in effect in the State of New York; provided that when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any asset, the term "UCC" shall mean the Uniform Commercial Code as in effect from time to time in such state. The terms "accounts", "instruments", "documents", "chattel paper", "deposit accounts", "general intangibles" and "payment intangibles", as used herein, shall have the respective meanings ascribed to such terms in the UCC.

Unable to Pay: Means with respect to a Debtor that such Debtor is unable to pay its debts as and when they fall due. Unable to Pay is generally presumed if the Debtor generally ceases to make payments.

Undisclosed Procedure: Purchase procedure in which the sale and assignment of Purchased Receivables is not initially, but only in the Collection Procedure, disclosed.

Utilization: Sum of the balances on all Accounts held for the ORIGINATOR in accordance with this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective authorized representatives as of the date first specified above.

KidKraft, Inc.
as Originator

By:  _____

Name: TODD WHITBECK

Title: CFO

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective authorized representatives as of the date first specified above.

KidKraft, Inc.
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By: _____

Name: C. Stoffel

Title: MD

Name: I. Müller

Title: Prokurist

Schedule 1 (Terms and Conditions)

1. Debtors included in the Receivables Sale Agreement:

Debtor Name	Street, Postal code, City	Country
Amazon.com Services LLC	410 Terry Avenue N Seattle, WA 98109-5210	US
Costco Wholesale Corp.	999 Lake Drive Issaquah, WA 98027	US
Target Corporation	1000 Nicollet Mall, Minneapolis, MN 55403	US
Wal-Mart Stores, Inc.	608 SW 8TH STREET, BENTONVILLE AR 727126297	US
Wayfair, LLC	177 HUNTINGTON AVE, Boston MA 2115	US

2. **Acceptable Currency: USD**

3. **Purchase Price Reserve: 5 %**

4. **Factoring Commission**

The initial Factoring Commission under this Agreement is for Receivables denominated in USD 0.4445 %. Afterwards the PURCHASER determines ten (10) Business Days after the end of each calendar quarter a new Factoring Commission on the basis of the following formula:

$$0.06 \% + \text{Relevant Advance Rate} * (\text{Applicable Rate} / 360) * \text{Average Days to Pay}$$

The Factoring Commission determined on the basis of this formula shall only take effect for Purchased Receivables booked on the Factoring Account after determination of such new Factoring Commission.

The terms highlighted in **bold** in this section (*Factoring Commission*) of Schedule 1 (Terms and Conditions) have the following meaning:

Additional Reserve: Expressed as percentage rate: **(Average Sum Dispute Reserve + Average Sum Counterclaim Reserve) / Average Sum Purchased Receivables.**

Applicable Rate: for Receivables denominated in USD LIBOR plus 3.25 %.

Average Days to Pay: As of any day of determination, the weighted average of the number of days from the date of booking of the relevant Receivables to the Factoring Account to the date of payment of each Receivable that was collected during the calendar quarter most recently ended. In the case of a partial payment on a relevant Receivable such partial payment is taken into account on a pro rata basis for the calculation of **Average Days to Pay.**

Average Sum Counterclaim Reserve: As of any day of determination, the sum of reserves for Counterclaims booked on the Special Blocked Account on the last day of each month in the calendar quarter which ended last, divided by three (3).

Average Sum Dispute Reserve: As of any day of determination, the sum of **Dispute Reserve** on the last day of each month in the calendar quarter which ended last, divided by three (3).

Average Sum Purchased Receivables: As of any day of determination, the sum of the Nominal Amounts of the Purchased Receivables booked on the Factoring Account on the last day of each month in the calendar quarter which ended last, divided by three (3).

Dispute Reserve: Debit to the **Settlement Account** due to a Notification of Dispute.

LIBOR: As of any day of determination, the three-month London Interbank Offered Rate (daily rate) for the relevant currency. The PURCHASER will be allowed, following consultation with ORIGINATOR and using commercially reasonable efforts to accommodate ORIGINATOR's suggestions, to replace such LIBOR with a new benchmark which (i) is publicly designated or recommended by the relevant authority or its working group or committee, the Financial Stability Board, or the administrator as the replacement for the LIBOR and/or (ii) in the reasonable opinion of the PURCHASER is generally accepted in the international or local market as the appropriate replacement for the LIBOR with respect to non-recourse or limited recourse receivables purchase facilities. It being understood that such replacement benchmark could also be a reformed LIBOR, for example when the determination method of the LIBOR has been altered.

Relevant Advance Rate: 100% minus Purchase Price Reserve minus Additional Reserve.

5. Debtor Limit Fee, Costs of Money Transfer charged by other Financial Institutions:
 - a) **Debtor Limit Fee:** as agreed in Supplement No 1 to this Agreement regarding the credit insurance.
 - b) The ORIGINATOR shall bear all actual, out-of-pocket costs charged or deducted by external financial institutions concerning all Debtor related payments received by PURCHASER directly or on a Pledged Account. In case of Pledged Accounts the ORIGINATOR shall further bear any costs and expenses arising in connection with the establishment of the related control agreement, account management and money transfer.

6. **Maximum Commitment:** **50,000,000 USD** for the entire Customer Group whereby it is understood that such Maximum Commitment is available for mutual and joint utilization by the members of the Customer Group. I.e., each member of the Customer Group can utilize its Receivables Sale Agreement with the PURCHASER to the extent required but subject to the aggregate maximum amount of USD 50.000.000 for all members of the Customer Group. The terms highlighted in **bold** in this section (*Maximum Commitment*) of Schedule 1 (Terms and Conditions) have the following meaning:

Customer Group: KidKraft Inc., 4630 Olin Road Dallas, TX 75244, United States of America, Solowave Design Corp., 4630 Olin Road, Dallas, TX 75244, United States of America and Solowave design LP, 160 Elgin Street, Suite 2600, Ottawa, Ontario, Canada. To determine the utilization of the Maximum Commitment by the Customer Group, the PURCHASER is authorized to convert any utilization in a currency other than USD into USD at the bid rate applicable at such date of determination.

7. Commencement Date: August 4, 2021
8. Expiration Date: August 31st, 2024
9. Pledged Accounts:

ABA Routing Number: 062001186
 Account Number: 6797592046
 SWIFT: CPASUS44
 Account Bank: BBVA Compass

10. Purchaser Accounts (if any): not applicable.
11. Full-Service- Purchase or Inhouse-Purchase: The Inhouse-Purchase will apply.
12. Disclosed / Undisclosed Procedure: The Undisclosed Procedure shall apply.
13. Note of sale and assignment in the Disclosed Procedure: not applicable.

14. ORIGINATOR's Notice Address:

KidKraft Inc.
4630 Olin Road
Dallas, TX 75244
United States of America
Attention: Todd Whitbeck
Email: Todd.Whitbeck@kidkraft.com

15. Originator Payment Account:

ABA Routing Number: 062001186
Account Number: 6737229473
SWIFT:CPASUS44
Account Bank: BBVA Compass
Account Title / Name: KidKraft, Inc.

16. Others:
- a) The parties hereto agree that upon the ORIGINATOR's request, a Debtor shall be excluded from the scope of this Agreement in case Purchaser anticipates in its commercially reasonable judgement not being able to purchase a majority of Receivables from the Debtor, subject to the terms governing Eligible Receivables, Debtor Limits, and other terms of the Agreement.
 - b) The parties agree to use good faith efforts to add additional parties identified by ORIGINATOR from time to time as "Debtors" under this Agreement.

Accepted, acknowledged and agreed

as of August 4, 2021

KidKraft, Inc.
as Originator

By:  _____

Name: TODD WHITBECK

Title: CFO

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

Accepted, acknowledged and agreed

as of August 4, 2021

KidKraft, Inc.
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By: _____

Name: C. Stoffel A. Müller

Title: MD Rechtsanwalt

Schedule 2 (Transfer of Data)

The data received from the ORIGINATOR within the scope of this Agreement is transmitted by the PURCHASER to the necessary extent to its Affiliates for the purpose of internal review and decision on the purchase of Receivables, the collection of Receivables and the determination of a score value of the ORIGINATOR and/or its Debtors. The data may also be passed on to credit insurance companies or re-insurance companies for purposes of coverage of bad debt risks under credit insurance contracts or re-insurance contracts, to banks, financial service providers and other third parties for refinancing purposes, external experts and advisors including legal advisors, tax advisors or auditors for their individual auditing and/or consulting activities as well as to external service providers - if necessary as processors bound by instructions (*Auftragsdatenverarbeiter*) - e.g. for IT services or infrastructure services, customer service, e-mail distribution and other services, or to any other persons expressly agreed with the ORIGINATOR or entitled by law. This data is also used to check the ORIGINATOR's creditworthiness. The results obtained in this way can also be made available to third parties by the PURCHASER or the data recipients. Further information on data protection can be found at www.coface.de/Datenschutz.

Accepted, acknowledged and agreed

as of August 4, 2021

KidKraft, Inc.
as Originator

By:  _____

Name: TOM WHITBECK

Title: CFO

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

Accepted, acknowledged and agreed

as of August 4, 2021

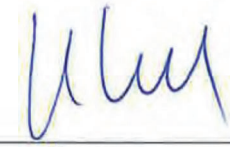

KidKraft, Inc.
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By:  _____  _____

Name: C. Stoffel

T. Müller

Title: MD

Prokurist

Schedule 3 (Conditions Precedent)

(a) A duly executed counterpart of this Agreement and its schedules;

(b) A certificate of the secretary or assistant secretary of the ORIGINATOR certifying and (in the case of clauses (i) through (v) below) attaching as exhibits thereto, among other things:

(i) a copy of the certificate incorporation of the ORIGINATOR (certified by the Secretary of State or other similar official of the ORIGINATOR's jurisdiction of incorporation as of a recent date);

(ii) a copy of the by-laws of the ORIGINATOR;

(iii) a copy of resolutions of the board of directors of the ORIGINATOR authorizing the execution, delivery and performance by the ORIGINATOR of this Agreement and all other documents evidencing necessary corporate action (including shareholder consents) and government approvals, if any, and

(iv) the incumbency, authority and signature of each officer of the ORIGINATOR executing this Agreement or any certificates or other documents delivered hereunder or thereunder on behalf of the ORIGINATOR;

(v) A good standing certificate for the ORIGINATOR issued by the Secretary of State or a similar official of the ORIGINATOR'S jurisdiction of incorporation;

(c) Copies of financing statements (Form UCC-1) to be filed on or promptly after the Commencement Date naming the ORIGINATOR, as debtor/seller, in favor of PURCHASER, as secured party/buyer, or other similar instruments or documents as may be necessary or in the reasonable opinion of PURCHASER desirable under the UCC of all appropriate jurisdictions or any comparable law to perfect PURCHASER'S ownership and security interests, as applicable, in all Receivables and their Related Assets;

(d) Certified copies of requests for information or copies (Form UCC-1) (or a similar search report certified by parties acceptable to PURCHASER) as of a recent date listing all

effective financing statements which name the ORIGINATOR (under their respective present names and any previous names) as debtor and which are filed in jurisdictions in which the filings were made pursuant to clause (c) above and such other jurisdictions where PURCHASER may reasonably request together with copies of such financing statements (none of which shall cover any Purchased Receivables or Related Assets);

(e) With respect to Purchased Receivables, security interest releases and filed copies of proper financing statements (Form UCC-3) (or copies of UCC-3 forms to be filed in connection with the closing of this Agreement), if any, necessary to terminate all security interests and other rights of any person or entity in the Receivables and their Related Assets; with respect to Receivables that are not Purchased Receivables, an agreement or acknowledgement in respect of the Credit Agreement, in form and substance reasonably acceptable to the PURCHASER, the ORIGINATOR, and the administrative agent under such Credit Agreement with respect to the handling and processing of funds from Debtors that come into any Pledged Account;

(f) Executed supplement No. 1 to this Agreement regarding credit insurance;

(g) Executed Control Agreements relating to each of the Pledged Accounts;

(g) [reserved];

(h) Confirmation by KidKraft Intermediate Holdings, LLC that the Originator has neither assigned any Receivables to them nor to any third party;

(i) One or more favorable opinions of Wick Phillips Gould & Martin, LLP and Tuan Olona, LLP, special counsel to the ORIGINATOR, collectively covering corporate, no-conflicts, enforceability, UCC security interest creation, perfection and filing priority matters and all other matters reasonably requested by PURCHASER, in each case, in form and substance satisfactory to PURCHASER including but not limited to this Agreement, the Control Agreement and the joint and several liability agreement; and

(j) A favorable opinion of Tuan Olona, LLP, special counsel to the ORIGINATOR, covering certain bankruptcy and

insolvency matters (i.e., "true sale") in form and substance satisfactory to PURCHASER.

Accepted, acknowledged and agreed

as of August 4, 2021

KidKraft, Inc.

as Originator

By:



Name: TODD WHITBECK

Title: CFO

Coface Finanz GmbH

as Purchaser

By:

Name:

Title:

Accepted, acknowledged and agreed

as of August 4, 2021


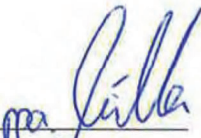
KidKraft, Inc.
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By:  _____ 
Name: C. Stoffel T. Matler
Title: MD Prokurist

This is Exhibit "E" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L

Dated: April 21st, 2022

RECEIVABLES SALE AGREEMENT

between

Coface Finanz GmbH

Isaac-Fulda-Allee 1
55124 Mainz
Germany

- hereinafter referred to as "**PURCHASER**" -

and

Solowave Design LP

having its registered office at
160 Elgin Street, Suite 2600
Ottawa, ON K1P 1C3
Canada

Customer No.: 2021/029

- hereinafter referred to as "**ORIGINATOR**" -

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II. SCHEDULES

- Schedule 1 (Terms and Conditions)
- Schedule 2 (Transfer of Data)
- Schedule 3 (Conditions Precedent)

Note:

Terms in capital letters have the meaning ascribed to them in, or by reference in, part B (DEFINITIONS).

1. Purpose of this Agreement

This Agreement shall be the basis for sales and purchases of Receivables and their Related Assets by the ORIGINATOR, herein acting by its sole general partner Solowave Design Inc. ("SDI"), as seller and PURCHASER as purchaser of the relevant Receivables and their Related Assets.

2. Receivables Sale Agreement, Receivables Notification

2.1 The ORIGINATOR hereby offers to sell to PURCHASER all of its Receivables and their Related Assets from those Debtors set out in Schedule 1 (Terms and Conditions) together with such other Debtors as may be agreed in writing at any time prior to such sale between PURCHASER and the ORIGINATOR.

The ORIGINATOR shall be deemed to repeat each offer in respect of each individual Receivable and its Related Assets by sending a Receivables Notification to PURCHASER. Each Receivables purchase shall be effectuated by PURCHASER's acceptance of the ORIGINATOR's offer in accordance with clause 3.

Acceptance of the relevant offer shall occur by PURCHASER making a book-entry of the relevant Purchased Receivable on the Factoring Account, without any requirement for the ORIGINATOR to receive any notice of such book entry, it being understood that the ORIGINATOR will receive a Report from the PURCHASER on each Business Day.

2.2 The ORIGINATOR shall send a Receivables Notification to PURCHASER within 10 Business Days after having sent the related invoice to the relevant Debtor.

2.3 The ORIGINATOR will submit each Receivables Notification by data transfer in accordance with Format Specification.

3. Obligation to Purchase

3.1 PURCHASER shall accept the ORIGINATOR's offer to sell a Receivable and its Related Assets if the relevant Receivable satisfies the following requirements:

- (a) the Receivables Notification is correct and complete and was sent by the ORIGINATOR within the timeline set out in clause 2.2;
- (b) the relevant Receivable is Eligible at the time of such offer and at the time of sale;
- (c) the sum of the amount of the relevant Receivable and all unpaid Purchased Receivables owed by the relevant Debtor and its Affiliates does not exceed 65 % of all unpaid Purchased Receivables of the ORIGINATOR and any other member of the Customer Group owed by all of the Debtors;
- (d) the relevant Receivable when purchased hereunder would not cause the Debtor Limit for the related Debtor to be exceeded;
- (e) the payment of the purchase price in respect of such Receivable will not result in the Maximum Commitment being exceeded; and
- (f) no Event of Default exists or would exist as a result of such purchase.

PURCHASER will only purchase whole Receivables. Partial purchases and participations will not be permitted.

3.2 PURCHASER shall purchase a Receivable and its Related Assets if a Receivable that was initially not purchased because it did not fulfill the requirements of clause 3.1 subsequently fulfils the requirements set out in clause 3.1 in all respects. In such case, PURCHASER shall move such Receivable from the Special Account to the Factoring Account and will pay the purchase price (net of the Purchase Price Reserve) for such Receivable and its Related Assets in accordance with this Agreement.

3.3 PURCHASER may in its absolute discretion by written notice to the ORIGINATOR (which may be included in the Report), but shall not be required to, purchase any Receivable together with its Related Assets which do not fulfil the requirements set out in clause 3.1.

3.4 For the avoidance of doubt, all representations, warranties and undertakings applicable to Purchased Receivables will apply to such Receivables, except – in case of any non-fulfillment of the requirements set out in clause 3.1 (a) and (b) - to the extent that any respective non-fulfillment is notified by the ORIGINATOR to PURCHASER prior to the purchase thereof under this Agreement.

3.5 PURCHASER will, after receipt of the relevant Receivables Notification, book all Receivables included in such Receivables Notification which will not be purchased in accordance with this Agreement to the Special Account. Such Receivables shall continue to be offered for sale.

4. Purchase Price, Purchase Price Adjustment, Due Date, Reserves, Dilution

4.1 The purchase price for each Purchased Receivable and its Related Assets shall be equal to the Nominal Amount for such Purchased Receivable net of (without duplication) any applicable Dilutions (to the extent not already reflected in the applicable Nominal Amount including deductions to the outstanding principal balance of such Purchased Receivable for discounts, disputes, and credit notes in existence prior to such sale. The parties agree that each such purchase price (together with the various fees and charges outlined in this Agreement) is equal to the fair value of such Purchased Receivable and its Related Assets.

The purchase price (excluding any Purchase Price Reserve) shall be payable to the ORIGINATOR in the manner described herein when the Purchased Receivable is purchased. Any payments in respect of the purchase price and all other amounts payable by PURCHASER to the ORIGINATOR (including, without limitation, any amounts reimbursable by PURCHASER hereunder) will be made by book entry by PURCHASER on the Settlement Account.

ORIGINATOR shall pay PURCHASER on the first Business Day of each calendar month an amount equal to the sum of the Purchase Price Adjustment for each Purchased Receivable transferred by the ORIGINATOR to the PURCHASER during the immediately preceding calendar month and the PURCHASER shall debit the Settlement Account on each such Business Day (or such later date as agreed to by the PURCHASER and the ORIGINATOR) in an amount equal to the sum of all of such Purchase Price Adjustments for such immediately preceding calendar month.

4.2 The Purchase Price Reserve for any Purchased Receivable shall only be released to the ORIGINATOR, by a credit to the Settlement Account, after:

- (a) the Debtor has fully paid the relevant Purchased Receivable to PURCHASER, but in the Inhouse-Purchase procedure, only after Reconciliation Process, or
- (b) such Purchased Receivable becomes subject to a Bad Debt Case in accordance with clause 6.3.

For the avoidance of doubt, the Purchase Price Reserve shall not protect the PURCHASER from a Bad Debt Case.

4.3 PURCHASER shall be entitled to increase the Purchase Price Reserve (which shall be applicable only to Receivables purchased by PURCHASER under this Agreement after such increase) beyond the

agreed amount if and to the extent that PURCHASER has, based on the facts available to it, reason to believe that the Purchase Price Reserve is not sufficient to adequately cover all Dilutions or anticipated Dilutions on a Purchased Receivable purchased after the date of such increase.

Any such increase in the Purchase Price Reserve shall be made on a commercially reasonable basis and in good faith and shall be effective only upon written notice to the ORIGINATOR (which may be included in the Report). The Purchase Price Reserve may not be increased to protect PURCHASER from a Bad Debt Case.

4.4 In the event of a Notification of Dispute, PURCHASER shall be entitled to set aside a Special Purchase Price Reserve for such reason and to debit the Settlement Account accordingly immediately. Simultaneously, the PURCHASER will move the Receivable from the Factoring Account to the Special Account, however, the Receivables remain purchased by the PURCHASER.

PURCHASER will credit the Special Purchase Price Reserve to the Settlement Account if and to the extent that (i) the outstanding principal balance of such Purchased Receivable is paid in full by the Debtor, (ii) the outstanding principal balance of such Purchased Receivable is paid in part by the Debtor and any shortfall resulting from such partial payment is less than the Special Purchase Price Reserve (in which event the amount so credited will be the amount by which the Special Purchase Price Reserve exceeds such shortfall), (iii) it has been established by final and non-appealable judgment that the events or conditions giving rise to the Notification of Dispute have terminated without any additional Dilution on such Purchased Receivable, (iv) in the case of a Debtor that disputes its obligation to pay such Purchased Receivable and such Debtor is or becomes the subject of a case under the United States Bankruptcy Code, under the Bankruptcy and Insolvency Act (Canada), under the Companies' Creditors Arrangement Act (Canada), or under the insolvency law or another jurisdiction, if such Debtor fails to timely dispute a claim properly made in such case with respect to such Purchased Receivable or (v) the applicable Debtor has acknowledged in writing, or the ORIGINATOR has provided other evidence satisfactory to PURCHASER at its sole discretion, that the events or conditions giving rise to the Notification of Dispute have terminated without any additional Dilution on such Purchased Receivable.

4.5 If on any day the outstanding principal balance of any Purchased Receivable is reduced or such Purchased Receivable is cancelled as a result of any Dilution, then on such day, the amount of such deduction or cancellation will be charged against the Purchase Price Reserve and/or the Special Purchase Price Reserve. Upon the payment of the entire outstanding principal balance of such Purchased Receivable, if the total amount of such Dilution is less than the amount of any remaining portion of the Purchase Price Reserve and/or the Special Purchase Price Reserve attributable to such Purchased Receivable, the net amount of such portion of the Purchase Price Reserve and/or the Special Purchase Price Reserve will be credited to the Settlement Account. If the aggregate amount of such reductions or cancellations exceeds the portion of the Purchase Price Reserve and/or the Special Purchase Price Reserve attributable to such Purchased Receivable, the Settlement Account will be debited accordingly.

4.6 If on any day it is determined that any of the Purchased Receivables were not Eligible at the time of purchase by PURCHASER or thereafter ceases to be Eligible (whether determined on or after the sale of such Purchased Receivable to PURCHASER), the ORIGINATOR shall have the obligation to repurchase all of such Purchased Receivables then outstanding affected by such condition (the "**Repurchased Receivables**") for a payment equal to the Repurchase Price. PURCHASER shall move such Receivable from the Factoring Account to the Special Account and upon such move, such Repurchased Receivable and its Related Assets shall hereby be, and be deemed to be, repurchased by the ORIGINATOR from PURCHASER without recourse to or warranty by PURCHASER (but free of any lien or other adverse claim created by PURCHASER or any person or entity claiming through PURCHASER, and PURCHASER shall take such necessary or commercially reasonable action to release any lien or claim on such Repurchased Receivables in favor of PURCHASER other than the liens granted and to be maintained pursuant to Article 10 hereunder). PURCHASER shall debit the Repurchase Price from the Settlement Account (after first applying thereto any Purchase Price Reserve and/or Special Purchase Price Reserve attributable to the relevant Repurchased Receivable) at such time as PURCHASER shall deem appropriate.

5. Representations and Warranties; Obligations of the ORIGINATOR Regarding Receivables

5.1 The ORIGINATOR and SDI represent and warrant to PURCHASER on the date hereof, on the date of each Receivables Notification and on the date of each Receivables purchase hereunder that, in each case, as of such date unless otherwise noted:

- (a) Each Purchased Receivable is Eligible in accordance with the definition thereof until it is fully collected (it being understood that if a Purchase Receivable becomes subject to a Dilution, the existence of such Dilution will not violate this clause (a) if the ORIGINATOR complies with the requirements of clause 4.5).
- (b) (i) ORIGINATOR is a limited partnership formed under the Limited Partnerships Act (Alberta), (ii) SDI is a corporation duly incorporated, validly existing and in good standing under the laws of the Province of Ontario, (iii) SDI, in its capacity as the general partner of ORIGINATOR, has all corporate power and capacity and all licenses, authorizations, consents and approvals of all Official Bodies required to carry on its business in each jurisdiction in which its business is now and proposed to be conducted, except where the failure to have any such licenses, authorizations, consents and approvals would not individually or in the aggregate have a Material Adverse Effect and (iv) each of ORIGINATOR and SDI are duly qualified to do business in, and is in good standing in, every other jurisdiction in which the nature of its business requires it to be so qualified, except where the failure to be so qualified or in good standing would not have a Material Adverse Effect.
- (c) The execution, delivery and performance by SDI, in its capacity as general partner of the ORIGINATOR, of this Agreement, and the other documents delivered in connection herewith (i) are within the corporate powers of SDI, (ii) have been duly authorized by all necessary corporate and shareholder action, (iii) require no action by or in respect of, or filing with, any Official Body or official thereof (except as contemplated by clause 11.1), (iv) do not contravene or constitute a default under (A) the limited partnership agreement of the ORIGINATOR, (B) the certificate of incorporation or by laws of SDI, (C) any law applicable to the ORIGINATOR or SDI in any material respect, (D) any contractual restriction binding on or affecting ORIGINATOR or its property or (E) any order, writ, judgment, award, injunction, decree or other instrument binding on or affecting ORIGINATOR or its property, or (v) do not result in the creation or imposition of any lien, security interest or other encumbrance upon or with respect to its property, except as contemplated hereby.
- (d) This Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of the ORIGINATOR, enforceable against it in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the rights of creditors generally and (ii) equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law).
- (e) PURCHASER has given reasonably equivalent value to the ORIGINATOR in consideration for the transfer to PURCHASER of the Purchased Receivables and their Related Assets from the ORIGINATOR, and each such transfer has not been made for or on account of an antecedent debt owed by the ORIGINATOR to PURCHASER and, no such transfer is or may be voidable under any section of the United States Bankruptcy Code, the Bankruptcy and Insolvency Act (Canada), or the Companies' Creditors Arrangement Act (Canada).
- (f) At the time of its purchase hereunder, the ORIGINATOR is the owner of each Purchased Receivable and all of its Related Assets free and clear of all ownership interests, liens, security interests and other encumbrances (other than any ownership or security interest arising under this Agreement in favor of PURCHASER). This Agreement constitutes a valid sale, transfer and assignment of the Purchased Receivables and their Related Assets to PURCHASER and, upon each purchase, PURCHASER shall acquire a valid and enforceable sole ownership interest in

each Purchased Receivable and all of its Related Assets that exist on the date of such purchase, free and clear of any ownership interests, liens, security interests and other encumbrances.

- (g) All information heretofore furnished by the ORIGINATOR to PURCHASER for purposes of or in connection with this Agreement or any transaction contemplated hereby is, and all such information hereafter furnished by the ORIGINATOR to PURCHASER shall be, true, complete and accurate in every material respect, on the date such information is prepared, stated or certified, and no such item contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.
- (h) The ORIGINATOR has (i) timely filed all tax returns (federal, state, provincial and local) required to be filed (taking into account any properly filed extension permitted under applicable law), (ii) paid or made adequate provision for the payment of all Taxes and (iii) accounted for each sale of each Purchased Receivable and its Related Assets hereunder, in its books and financial statements as sales, consistent with GAAP; provided ORIGINATOR shall be permitted to contest any taxes in accordance with applicable law without being in breach of the forgoing representation so long as ORIGINATOR maintains adequate reserves for any contested taxes.
- (i) [Reserved.]
- (j) Within the last five (5) years, neither the ORIGINATOR nor SDI has changed its name, or the location of its chief executive office or its jurisdiction of organization, merged with or into or consolidated with any other corporation (other than the mergers of which the ORIGINATOR provided written notice to PURCHASER prior to the date hereof) or been the subject of any proceeding under the United States Bankruptcy Code, the Bankruptcy and Insolvency Act (Canada), or the Companies' Creditors Arrangement Act.
- (k) The ORIGINATOR is not, and is not controlled by, an "investment company" within the meaning of the Investment Company Act of 1940, or is exempt from all provisions of such act.
- (l) All Debtors have been instructed, or arrangements agreed upon with PURCHASER to instruct Debtors as of the date of this Agreement have been made, to make payment to a Directed Account and only Collections are deposited into the Directed Accounts.
- (m) No transaction contemplated hereby requires compliance with any bulk sales act or similar law.
- (n) The fair value of the ORIGINATOR's assets is greater than the amount of its liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated. The present fair saleable value of the ORIGINATOR's assets is not less than the amount that will be required to pay the probable liability on its debts as they become absolute and matured. The ORIGINATOR is able to realize upon its assets and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business. The ORIGINATOR does not intend to, and does not believe that it will, incur debts or liabilities beyond its ability to pay as such debts and liabilities mature. The ORIGINATOR is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which its property would constitute unreasonably small capital.
- (o) There exists no event or condition which, either individually or together with any related events or conditions, has caused a Material Adverse Effect.

5.2

- (a) The ORIGINATOR covenants that each Purchased Receivable will continue to be Eligible in accordance with the definition thereof until it is fully collected (it being understood that if a

Purchased Receivable ceases to be Eligible, such cessation will not violate this clause 5.2 if the ORIGINATOR complies with the requirements of clause 4.6); provided, however, those elements of the definition of "Eligible" measured as of a specific date (e.g., the date of purchase by PURCHASER) shall not be updated to a subsequent date for the purpose of determining whether a Purchased Receivable ceases to be Eligible.

- (b) The ORIGINATOR covenants that it will not take or permit to be taken any action that would cause any Purchased Receivable that was Eligible on the date of purchase thereof by PURCHASER to cease to be Eligible at any time thereafter. The ORIGINATOR shall not extend the maturity date of any Purchased Receivable unless expressly permitted by PURCHASER. Furthermore, the ORIGINATOR shall not otherwise adjust or modify any Purchased Receivable or any contract giving rise to a Purchased Receivable unless the ORIGINATOR complies with clause 4.5 regarding any Dilution created by such adjustment or modification.

5.3 If a Debtor or any other person or entity makes any claim that a fact or condition exists which would cause a Purchased Receivable to not be Eligible in accordance with the definition thereof, the ORIGINATOR must inform PURCHASER by sending a Notification of Dispute promptly (but in any event within 5 Business Days of receipt or knowledge of such claim). The ORIGINATOR shall also provide PURCHASER with such other information as PURCHASER shall reasonably request regarding such matter and issue a credit note, where applicable.

6. **Bad Debt Coverage of PURCHASER**

6.1 PURCHASER hereby assumes the Bad Debt Coverage for each Purchased Receivable, in each case, to the extent that the representations and warranties in clause 5.1 are accurate for such Purchased Receivable when made (which Bad Debt Coverage shall not include or extend to limit any payments otherwise required to be made by the ORIGINATOR to PURCHASER under or in connection with this Agreement (including, without limitation, with respect to adjustments for discounts, credit notes, disputes and other Dilution)).

6.2 The Bad Debt Case occurs:

- (a) with respect to a Purchased Receivable, if the relevant Debtor fails to pay such Purchased Receivable within 120 days after its due date without disputing its obligation to pay prior to or after the expiry of such period;
- (b) with respect to all Purchased Receivables outstanding and owing from a Debtor as of any given date, if such Debtor is Unable to Pay; or
- (c) an Insolvency Event related to a Debtor occurs.

6.3 The Bad Debt Amount shall be settled in accordance with clause 4.2(b) by PURCHASER without undue delay after the occurrence of the Bad Debt Case.

7. **Debtor Limit, Discretionary Debtor Limit**

7.1 PURCHASER may, in its reasonable discretion by written notice to the ORIGINATOR (which may be included in the Report), set Debtor Limits for Debtors on the basis of the relevant Debtor's creditworthiness and reliability.

PURCHASER shall likewise be entitled by written notice to the ORIGINATOR (which may be included in the Report) to modify (including cancellation) Debtor Limits at any time. Any Debtor Limit established or increased pursuant to this clause 7 shall apply only to Receivables first occurring from and after ORIGINATOR receives of the applicable written notice, and no reduction or cancellation of any Debtor Limit will apply to Purchased Receivables previously purchased or to Receivables for which the

ORIGINATOR has already completely delivered the goods or fully performed the services under the contract giving rise to such Receivables.

7.2 The ORIGINATOR shall pay to PURCHASER the fee set out in Schedule 1 (Terms and Conditions) to establish a Debtor Limit for a Debtor.

8. Non-Purchased Receivables

Any payments made by Debtors in respect of Receivables which have not been purchased hereunder or payments from other parties that are not Debtors, unless the payment is made by such other party with respect to a Purchased Receivable, shall be credited to the Settlement Account for the account of the ORIGINATOR without set-off by PURCHASER for any Bad Debt Case but in the Inhouse-Purchase only after the Reconciliation Process.

9. Sale of Receivables

9.1 The ORIGINATOR hereby absolutely and irrevocably sells and otherwise assigns any and all of its rights, title and interest in, to and under the Receivables and their Related Assets that are agreed to be purchased by PURCHASER under clauses 2 and 3 (subject to all conditions described therein). Subject to acceptance by PURCHASER pursuant to clause 2.1 by making a book-entry recording of the relevant Purchased Receivable on the Factoring Account, PURCHASER hereby accepts such sale and assignment and purchases such Receivables and their Related Assets. The foregoing sale and assignment does not constitute, and is not intended to result in, the creation or an assumption by PURCHASER of any obligation or liability of the ORIGINATOR or any other person or entity under or in connection with all, or any portion of, the Purchased Receivables or the Related Assets, all of which shall remain the obligations and liabilities of the ORIGINATOR or such other person or entity, as applicable.

9.2 Except as provided in this Agreement, each sale of Purchased Receivables and their Related Assets is made without recourse to the ORIGINATOR, provided however that in any event the ORIGINATOR shall be liable to PURCHASER for all Dilution risk as provided in clause 4.5, its repurchase obligations under clause 4.6, for all incorrect representations and warranties as provided in clause 5.1 and for all payment obligations (including for fees and reimbursement of expenses) and indemnities set out herein.

9.3 It is the intent of the ORIGINATOR and PURCHASER that each purchase and sale of Purchased Receivables and their Related Assets under this Agreement is and shall be an absolute and irrevocable true sale of such Purchased Receivables for all purposes and not a loan arrangement under applicable laws and accounting principles, including, without limitation, in their respective books, records, computer files, tax returns (federal, state, provincial and local), regulatory and governmental filings. The ORIGINATOR will advise all persons inquiring about the ownership of any Purchased Receivable that all Purchased Receivables have been sold to the PURCHASER. Each such sale shall be, subject to the terms hereof, absolute and irrevocable, providing PURCHASER with the full risks and benefits of ownership of the Purchased Receivables and their Related Assets (such that neither the Purchased Receivables nor their Related Assets would be property of the ORIGINATOR's estate in the event of its bankruptcy).

10. Security

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 the ORIGINATOR, the ORIGINATOR grants to PURCHASER a security interest, to secure all of the ORIGINATOR's present and future obligations under this Agreement, in the following, whether now existing or otherwise arising or acquired: (a) all Purchased Receivables and their Related Assets; (b) all sums standing to the ORIGINATOR'S credit with respect to the Purchased Receivables with PURCHASER (including, without limitation, any security deposits pledged under this Agreement); (c) [reserved]; (d) each Pledged Account and all amounts on deposit therein from time to time;

(e) all proceeds of the foregoing including insurance proceeds; and (f) any other property of the ORIGINATOR in which PURCHASER is assigned, purchases or is granted a lien or security interest under this Agreement or pursuant to any supplement or amendment to this Agreement or any other agreement now existing or hereafter executed by the ORIGINATOR with or in favor of PURCHASER.

10.2 In addition, as additional security, the ORIGINATOR grants to PURCHASER a security interest, to secure all of the ORIGINATOR's present and future obligations under this Agreement, in the following, whether now existing or otherwise arising or acquired: (a) [Reserved]; (b) all sums with respect to Purchased Receivables standing to the ORIGINATOR'S credit with PURCHASER (including, without limitation, any security deposits pledged under this Agreement); (c) [Reserved]; (d) each Pledged Account and all amounts on deposit therein from time to time; (e) all proceeds of the foregoing including insurance proceeds; and (f) any other property of the ORIGINATOR in which PURCHASER is assigned, purchases or is granted a lien or security interest under this Agreement or pursuant to any supplement or amendment to this Agreement or any other agreement now existing or hereafter executed by the ORIGINATOR with or in favor of PURCHASER. For the avoidance of doubt, the security interest granted under this Clause 10.2 shall not protect the PURCHASER against a Bad Debt Case.

10.3 The parties hereby acknowledge that (1) value has been given, (2) ORIGINATOR has rights in the Collateral, and to the extent that ORIGINATOR does not acquire rights or interests in any of the Collateral until after the execution and delivery of this Agreement, the security interest created hereby shall attach to such Collateral at the time the ORIGINATOR or SDI acquires rights or interests therein, and (3) this section 10 constitutes a security agreement as that term is defined in the PPSA.

11. Perfection

11.1 The ORIGINATOR and PURCHASER agree that appropriate UCC or PPSA financing statements or other perfection requirements have been or shall promptly be filed, at ORIGINATOR'S expense, to reflect that the ORIGINATOR and, to the extent necessary, SDI, in its capacity as general partner of the ORIGINATOR, is the debtor/seller and PURCHASER is the secured party/purchaser of the Purchased Receivables and their Related Assets. In addition, the ORIGINATOR irrevocably authorizes PURCHASER at any time and from time to time to file in any jurisdiction all financing statements and amendments thereto provided for by the UCC, the PPSA or under any other jurisdiction to perfect the security interest or ownership interest of the Purchaser. The ORIGINATOR and SDI will cooperate with PURCHASER in the filing, recording or renewal thereof (and shall if requested execute such documents as may be necessary in such regard), and to pay all out-of-pocket search, filing and recording fees and expenses related thereto, and, to the extent required or permitted by applicable law, the ORIGINATOR and SDI authorize PURCHASER to sign the ORIGINATOR's and/or SDI's name thereon.

11.2 On or prior to the Commencement Date, the ORIGINATOR shall mark its master data processing records evidencing Purchased Receivables and related contracts with a legend, acceptable to PURCHASER, evidencing that such Purchased Receivables have been sold in accordance with this Agreement.

11.3 The ORIGINATOR agrees that from time to time, at its expense, it shall promptly execute and deliver all further instruments and documents, and use its best efforts to take all further action, that PURCHASER may reasonably request in order to perfect, protect or more fully evidence the purchases and pledges of security hereunder, or to enable PURCHASER to exercise or enforce any of its rights hereunder with respect to the Receivables and their Related Assets. To the extent that the sale or pledge of Related Assets, as applicable, is subject to specific additional requirements at law or under the related contracts or requested by PURCHASER, the ORIGINATOR undertakes to promptly comply with any such requirements in the required form. To the extent that the ORIGINATOR holds or reacquires direct possession of any Related Assets, the ORIGINATOR shall hold such Related Assets for PURCHASER in trust and separate from any other property, shall promptly notify PURCHASER thereof (if not reacquired from PURCHASER), and waives any claims for reimbursement of expenses.

11.4 Neither the ORIGINATOR nor SDI shall change its name, identity, jurisdiction of organization or structure (including a merger) or any other change which could render any UCC or PPSA financing statement filed in connection with this Agreement to become invalid or "seriously misleading" under the UCC or PPSA, as applicable, unless at least thirty (30) days prior to the effective date of any such change the ORIGINATOR or SDI delivers to PURCHASER such documents, instruments or agreements, executed by the ORIGINATOR or SDI, as applicable, as are necessary to reflect such change and to continue the perfection of PURCHASER's ownership interest and security interest in the Receivables and the Related Assets.

12. Conditions Precedent

The effectiveness of this Agreement shall be subject to the conditions precedent that PURCHASER or its attorney shall have received an original (unless otherwise indicated) of each of the documents and opinions described on Schedule 3 (Conditions Precedent), each in form and substance satisfactory to PURCHASER. This Agreement shall not become effective until such time as PURCHASER has confirmed in writing that the conditions of this clause 12 have been satisfied or waived by PURCHASER.

13. Full-Service Purchase, Inhouse Purchase

13.1 Schedule 1 (Terms and Conditions) sets out whether the accounts receivable bookkeeping and dunning procedure follow the rules of Full-Service-Purchase or Inhouse-Purchase.

13.2 The following rules apply to the bookkeeping:

In all instances, the ORIGINATOR will transfer the data, notices and other information relating to Receivables, such as invoices, credit notes, debit notes and Notifications of Dispute, by submitting the relevant documents pursuant to the Format Specification.

In the Full-Service-Purchase procedure, the Debtors' payments shall be booked and related to the relevant invoices directly by PURCHASER.

In the Inhouse-Purchase procedure, the Debtors' payments shall be booked by PURCHASER to the Incoming Payment Settlement Account. PURCHASER will provide to the ORIGINATOR a copy of its records of such payments so that the ORIGINATOR may relate such payments to the relevant invoices. On each Business Day, in any event at least once a week, the ORIGINATOR shall send its complete Open Items File and other information pursuant to the Format Specification to PURCHASER. Upon receipt of such data, the Reconciliation Process will be conducted by PURCHASER and all Accounts will be adjusted.

In the Inhouse-Purchase procedure, the ORIGINATOR shall keep the accounts receivable books and post all debits and credits in a timely manner so that the Open Items File is correct and up-to-date on a daily basis.

13.3 The following rules apply to the dunning procedure:

If the Debtor fails to pay a Receivable on the due date, 3 dunning runs in cycles of 14 days will generally be performed. If the relevant Receivable is not completely discharged within a period of 60 days after its due date, PURCHASER will initiate the Collection Procedure in accordance with clause 17.

In the Full-Service-Purchase procedure, PURCHASER will perform the dunning procedure, in the Inhouse-Purchase procedure, the ORIGINATOR will perform the dunning procedure. In the Inhouse-Purchase procedure, the ORIGINATOR will perform the dunning procedure in a diligent and timely manner in accordance with the forgoing schedule.

14. Disclosed/ Undisclosed Procedure

14.1 Schedule 1 (Terms and Conditions) sets out (a) whether the Disclosed Procedure or the Undisclosed Procedure applies and (b) whether Pledged Accounts or Purchaser Accounts will be used.

14.2 In the Disclosed Procedure, the ORIGINATOR will inform its Debtors at or before the Commencement Date about the purchase procedure and of the sale and assignment of Purchased Receivables and their Related Assets to PURCHASER (and the pledge of the Receivables not constituting Purchased Receivables and their Related Assets) in writing and in a letter of notification satisfactory to PURCHASER. Furthermore, the ORIGINATOR will attach to its invoices a clearly visible note of such sale and assignment (or, if applicable, such security interest) in accordance with Schedule 1 (Terms and Conditions). PURCHASER shall also be entitled to inform the Debtors about the purchase arrangement and such sale and the assignment (or, if applicable, such security interest).

The ORIGINATOR shall (and PURCHASER may) instruct all Debtors to cause all Collections on all Receivables (and not just Purchased Receivables) to be deposited directly to a Directed Account or to a related post office box (which will be owned or controlled by PURCHASER) to which only the banks maintaining the related Directed Accounts have access.

14.3 In the Undisclosed Procedure, the ORIGINATOR shall instruct all Debtors to cause all Collections on all Receivables (and not just Purchased Receivables) to be deposited directly to a Directed Account or to a related post office box (which will be owned or controlled by PURCHASER) to which only the banks maintaining the related Directed Accounts have access. The ORIGINATOR will use best efforts to ensure that only Debtors pay to the Directed Account.

14.4 In both the Disclosed and the Undisclosed Procedures, all invoices and any other relevant correspondence of the ORIGINATOR vis-à-vis its Debtors or the Receivables shall only specify the Directed Accounts as the ORIGINATOR's bank account details for proper payment. Any Debtors that may have been informed otherwise will be advised accordingly by the ORIGINATOR without undue delay and in any event no later than the latter of (i) five (5) Business Days after the origination of the related Receivable and (ii) the Commencement Date.

14.5 If Pledged Accounts are utilized, the ORIGINATOR agrees that each Pledged Account (and any related post-office box) shall at all times be subject to a valid and enforceable Control Agreement which provides PURCHASER with exclusive control over and security interest in such Pledged Account and all amounts on deposit therein free and clear of any liens, other interests or encumbrances of any kind or nature whatsoever (except those granted in favor of PURCHASER under this Agreement, Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties), and customary reimbursement and recoupment rights on the part of the depository bank therefor). The amounts received and on deposit in the Pledged Accounts with respect to Purchased Receivables shall serve the sole purpose of being transferred to PURCHASER in accordance with this Agreement. Items and amounts relating to such Collections received in post office boxes related to a Pledged Account shall be removed and deposited into such Pledged Account on each Business Day (other than postal holidays).

The ORIGINATOR represents and warrants to PURCHASER that no third party rights, encumbrances, interests or liens exist with respect to the Pledged Accounts other than Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties) and customary reimbursement and recoupment rights of each applicable depository bank. The ORIGINATOR agrees to inform PURCHASER immediately if any third party asserts any such right, encumbrance, interest or lien.

The ORIGINATOR will ensure that all amounts on deposit in each Pledged Account are withdrawn immediately prior to the Commencement Date.

14.6 In both the Disclosed and the Undisclosed Procedures, if any Collections or other payments from Debtors with respect to Purchased Receivables are received by the ORIGINATOR directly and not into a

Directed Account, the ORIGINATOR hereby undertakes to transfer such amounts directly to PURCHASER or to a Directed Account within two (2) Business Days after such receipt.

In both the Disclosed and the Undisclosed Procedures, if any payment from Debtors is received by the ORIGINATOR in the form of a check, other instrument or some other item of payment that cannot be deposited into a Directed Account immediately, the ORIGINATOR shall hold such item of payment in trust for PURCHASER and shall, within two (2) Business Days' of receipt, transfer such item of payment to PURCHASER in the form received with an appropriately completed endorsement or power of attorney for the benefit PURCHASER.

14.7 PURCHASER will be entitled to conduct twice per calendar year (or more often if it has reason to believe that the ORIGINATOR is in breach of material obligations under this Agreement) a balance acknowledgement procedure with Debtors.

In the Disclosed Procedure, PURCHASER will be permitted to send an account statement setting out the Receivables which, to PURCHASER's knowledge, are unpaid at the relevant date, including the account balance thereon, accompanied with a request to the relevant Debtor to confirm the unpaid balance set out therein to be accurate and certain other facts determined by PURCHASER in its reasonable discretion.

In the Undisclosed Procedure, upon request by the PURCHASER, the ORIGINATOR will instruct an auditor or certified public accountant to obtain confirmations of the outstanding Receivables from the Debtors without undue delay and to make these available to the PURCHASER. The ORIGINATOR will use best efforts to get a response from the Debtors without being liable that the Debtors respond.

15. Change of Procedure by Partial Termination

15.1 PURCHASER is entitled to terminate in writing the Inhouse-Purchase, the Undisclosed Procedure or both without observation of a termination period at any time (being a Partial Termination).

15.2 Upon effectiveness of a Partial Termination of the Inhouse-Purchase, this Agreement shall continue as Full-Service-Purchase, upon Partial Termination of the Undisclosed Procedure this Agreement shall continue as Disclosed Procedure, respectively.

16. Monthly Account Statement, Ratification, Time Limit for Objections

16.1 PURCHASER shall, within 10 days following the end of each month, send the Monthly Account Statement to the ORIGINATOR. Such Monthly Account Statement shall be deemed accurate and complete absent manifest error.

16.2 The ORIGINATOR must raise any objections concerning the incorrectness or incompleteness of a Monthly Account Statement in writing no later than 10 Business Days following receipt thereof. Failure to make objections in due time will be considered an approval of the Monthly Account Statement. PURCHASER may, at its option, request that an officer of the ORIGINATOR sign such Monthly Account Statement. Once signed by an officer of the ORIGINATOR, the Monthly Account Statement will be considered approved and verified by the ORIGINATOR.

16.3 Notwithstanding the foregoing, PURCHASER may reverse incorrect credit or debit entries on all Accounts of the ORIGINATOR by way of a reverse debit or credit entry at any time.

PURCHASER will notify the ORIGINATOR of any reverse debit or credit entries and correction entries made by it.

17. Collection Procedure

17.1 If any Receivables remain unpaid after the third dunning letter delivered pursuant to clause 13.3, PURCHASER will initiate the Collection Procedure.

17.2 Prior to the occurrence of an Event of Default, PURCHASER shall enter into settlement agreements concerning: (x) any Dilution on any Purchased Receivable or (y) any Receivable not constituting a Purchased Receivable, only with the consent of the ORIGINATOR, which consent shall not be unreasonably withheld, conditioned or delayed. Following the occurrence of an Event of Default, PURCHASER shall have all of the rights to settle any Receivable as provided in this Agreement and under applicable law.

The ORIGINATOR undertakes not to do anything that is inconsistent with the results of a legal proceeding between PURCHASER and the Debtor and shall do such things as are necessary to ensure the results of the legal proceeding are carried into effect.

17.3 The ORIGINATOR shall bear the collection costs for all Receivables except for Purchased Receivables which are Eligible and not subject to Dilution, in which case the collection costs will be borne by PURCHASER.

17.4 All collection costs paid by PURCHASER and to be borne by the ORIGINATOR will be debited to the Settlement Account. When the Purchase Price Reserve for any Purchased Receivable is released to the ORIGINATOR as provided herein because such Purchased Receivable has become subject to PURCHASER's Bad Debt Coverage, PURCHASER shall reimburse such collection costs paid by the ORIGINATOR or previously debited to the Settlement Account in respect of such Purchased Receivable. PURCHASER shall be entitled to claim an advance of the expenses described in this clause 17.4 from the ORIGINATOR in any reasonable instance.

17.5 The ORIGINATOR shall provide PURCHASER with all documentation and other information necessary for the Collection Procedure at the latest on the 60th day after the due date of the relevant Receivable and shall continue to provide such information immediately upon request during the procedure.

18. PURCHASER as Attorney In Fact and Agent for Servicing

The ORIGINATOR hereby appoints PURCHASER as its attorney in fact to, at any time during the continuation of an Event of Default, (a) execute or sign any deeds or documents (including bills of sale and assignments) arising from or related to the Receivables; (b) obtain payment of Receivables; (c) complete, deal with, negotiate or endorse checks, bills of exchange and other items of payment; (d) institute, conduct, compromise or defend any legal proceedings arising from or related to the Receivables; (e) settle any indebtedness to the ORIGINATOR or to Debtors (including, without limitation any disputed Receivables); and (f) perform such other lawful acts as PURCHASER in its absolute discretion may consider reasonably necessary or expedient in connection with the foregoing, in each case, by proceeding in a commercially reasonable manner. This power of attorney, being coupled with an interest, is irrevocable and shall not expire until (I) all monies and obligations due to PURCHASER under all of the Purchased Receivables and this Agreement have been paid and discharged in full and PURCHASER is under no further obligation to the ORIGINATOR under this Agreement or (II) the applicable Event of Default has been cured or waived in the sole discretion of PURCHASER. The ORIGINATOR will ratify anything lawfully done by any attorney, substitute attorney or their respective agents under the powers set out above.

The ORIGINATOR hereby appoints PURCHASER as its agent and servicer for the purpose of carrying out PURCHASER's responsibilities under clause 13 and clause 17 with respect to the Receivables not constituting Purchased Receivables and their Related Assets. PURCHASER may for such purposes make use of third party or affiliated attorneys, collection agencies and other agents. The ORIGINATOR will, upon request, provide to PURCHASER all necessary or desirable powers of attorney and confirmations in

favor of such agents. Furthermore, the ORIGINATOR will ratify anything lawfully done by any such agents under the powers set out above.

Notwithstanding any other provision of this Agreement, the ORIGINATOR agrees that PURCHASER will not have any liability to the ORIGINATOR arising from any action taken or omitted to be taken by PURCHASER (or its agents) pursuant to its powers exercised under and in accordance with this clause 18 other than any liability arising from the gross negligence or willful misconduct of PURCHASER, as determined in a final and non-appealable judgment by a court of competent jurisdiction.

19. Negative Pledge

- (a) The ORIGINATOR will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any ownership interest, lien, security interest or other encumbrance upon or with respect to, the Purchased Receivables or any Related Asset or upon or with respect to any Pledged Account or any other account to which any collections of any Purchased Receivable or any Related Asset are sent, or any right to receive income in respect thereof except the ownership interest of, or security interests in favor of, PURCHASER created under this Agreement or to which PURCHASER has agreed to in writing, and with respect to any Pledged Account except for Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties).
- (b) Except for Permitted Liens, the ORIGINATOR will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any ownership interest, lien, security interest or other encumbrance upon or with respect to, the Receivables (at any time such Receivables are not Purchased Receivables) or any Related Asset or upon or with respect to any Pledged Account or any other account to which any collections of any such Receivable or any Related Asset are sent, or any right to receive income in respect thereof except the ownership interest of, or security interests in favor of, PURCHASER created under this Agreement, and with respect to any Pledged Account except for Permitted Liens that are subject to terms of one or more written agreements executed by PURCHASER and the administrative agent under the Credit Agreement (among other parties).

20. Duty of Care

Unless otherwise provided in this Agreement, the ORIGINATOR will service, administer and, to the limited extent provided in this Agreement, collect the Purchased Receivables and PURCHASER hereby appoints the ORIGINATOR as its agent for such purpose. The ORIGINATOR will perform its servicing, administration and collection obligations and exercise its rights under contracts related to the Purchased Receivables with the same care and applying the same policies as it applies to its own receivables generally and would exercise and apply if it owned the Purchased Receivables and in any event with no less than reasonable care (the "Servicing Standard"). In such capacity, the ORIGINATOR shall act in accordance with the Servicing Standard with the intent of maximizing collections on the Purchased Receivables but in compliance with all applicable law and, to the extent not inconsistent with this Agreement, its credit and collection policies; provided, however, the forgoing provision does not impose any duty or obligations on ORIGINATOR to achieve specific results with respect to Collections.

21. Applicable Regulations

21.1 [Reserved]

21.2 The ORIGINATOR shall not (i) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any prohibition set forth in any Anti-Money-Laundering Law, (ii) use any part of any funds received from PURCHASER, directly or indirectly, for any payment to any governmental official or employee, political party, official of a political

party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977 (or any successor thereto) or any analogous legislation of Canada or any other jurisdiction or (iii) use any such funds to finance any operations, investments or activities in, or make any payments to, any Restricted Person. Further, none of the funds received from PURCHASER shall be used to finance any operations, investments or activities in, or make any payments to, any such country, agency, organization or party subject to OFAC sanctions. It is, for the avoidance of doubt, understood and agreed that ORIGINATOR's obligation pursuant to this clause 21.2 will not be binding upon any of ORIGINATOR's or any Group member's EU or German based employees or intermediaries to act in a manner which would result in such employee's or intermediary's noncompliance with their respective obligations under Sec. 4a of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*) or Council Regulation (EC) No. 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom.

22. Information Undertaking

22.1 The ORIGINATOR shall, promptly following PURCHASER's reasonable request, deliver to PURCHASER all records that document, or are necessary to enforce or otherwise collect, the Purchased Receivables and their Related Assets, such as bills of delivery, invoices, contracts, order confirmations etc.

22.2 The ORIGINATOR shall inform PURCHASER without undue delay and in any event within five (5) Business Days of any significant events relating to or materially affecting the Group's business, the ORIGINATOR's business or the Receivables or its collection or servicing thereof that materially impair ORIGINATOR's ability to permit its obligations hereunder and shall submit all relevant documents. In addition, ORIGINATOR shall provide:

- (a) The following financial information:
 - (i) Audited consolidated financial statements (120 days after the end of the financial year) of the Group,
 - (ii) (internal reporting of the ORIGINATOR which constitutes a basis for the consolidated financial statements of the Group, as a minimum including balance sheet and profit and loss (120 days after the end of the financial year) of the Group,
 - (iii) Unaudited consolidated financial statements or quarterly statements for each quarter (30 days after the end of each quarter) of the Group,
 - (iv) Liquidity statements (within 30 days after the end of each calendar quarter) of the Group, and
 - (v) Overview of all financing-lines (within 30 days after the end of each quarter) of the Group.
- (b) prior written notice of any intended changes (I) in the direct or indirect equity holders of ORIGINATOR if, following such change, Mid-Ocean shall cease to control or own a majority of the beneficial indirect interest in ORIGINATOR, or (II) to the constitutional documents of the ORIGINATOR to the extent that such changes are relevant for the performance of this Agreement or could reasonably be expected to adversely affect PURCHASER, the Receivables or the value, validity, enforceability or collectability thereof;
- (c) written notice of any material amendment, refinancing, or replacement of the Credit Agreement to the extent it may affect (except for the establishment of Permitted Liens), or any receivables financing, factoring or sale arrangements with other parties, credit institutions affecting, the ORIGINATOR and security interests relating to Receivables, Related Assets, the Pledged Account or other property pledged to PURCHASER hereunder;

- (d) the occurrence of any other matter or development that has had or could reasonably be expected to have a Material Adverse Effect; and
- (e) written notice of the occurrence of any Event of Default.

22.3 The ORIGINATOR will promptly, and in any event within two (2) Business Days, inform PURCHASER of any circumstances of which it may become aware concerning the risk of a Debtor of being Unable to Pay debts as and when they fall due.

22.4 The ORIGINATOR shall promptly provide PURCHASER with all information and documents necessary for, or reasonably requested by, PURCHASER to perform its obligations under any Anti-Money-Laundering Law and to promptly inform PURCHASER of any relevant changes during the course of the business relationship.

23. External Audit, Declaration of Consent

PURCHASER and its agents shall be entitled to perform twice a year a regular external audit at the ORIGINATOR's business premises during customary business hours.

However, PURCHASER is entitled to perform at any time an extraordinary external audit at the ORIGINATOR's business premises if it has reasonable grounds to believe that the ORIGINATOR has violated in any material respect its obligations under this Agreement.

In connection with any such audit, PURCHASER and its agents shall be entitled to review and make copies of all books, records and other documents of the ORIGINATOR relating to the Receivables. The ORIGINATOR shall cooperate with PURCHASER and its agents in good faith and provide PURCHASER or such agents with such information as PURCHASER or such agents shall reasonably request to effectuate the foregoing.

PURCHASER's right to receive information shall also include the right to receive information with respect to the Receivables from a tax advisor, certified public accountant, auditor or any other person who keeps the ORIGINATOR's accounts or prepares, establishes or audits the annual financial statements for the ORIGINATOR. The ORIGINATOR hereby releases such persons vis-à-vis PURCHASER from their professional duty of confidentiality.

PURCHASER's right to receive information shall also include the right to obtain information (e.g., regarding security interests in or payments to Receivables as well as the PURCHASER's creditworthiness) from the credit institutions and financial service providers, which work together with the PURCHASER. For this purpose, the ORIGINATOR hereby releases such credit institutions and financial service providers from the banking secrecy and other applicable non-disclosure obligations in respect of the PURCHASER. The ORIGINATOR is obliged to make any further declarations to credit institutions and financial service providers which may be required for this purpose.

24. Arrangements in Debtor Agreements

The ORIGINATOR shall use its commercially reasonable efforts to cause and shall provide PURCHASER with reasonable evidence that its agreements with any Debtors, in particular its general terms and conditions, contain the following terms:

- (a) Terms and conditions of any Debtor which are in conflict with the ORIGINATOR's terms and conditions shall have no effect.
- (b) The ORIGINATOR has the right to freely assign its Receivables and their Related Assets against the relevant Debtor to a third party, and (subject to the provisions of Part 4 of Article 9 of the

UCC, to the extent applicable) such third-party can enforce such Receivables and their Related Assets against the relevant Debtor, without consent or other limitation or encumbrance.

- (c) The contract giving rise to any Receivable shall be governed by and interpreted in accordance with the law of one of the Provinces of Canada or one of the United States.
- (d) To the extent permitted by applicable law, any set-off, potential set-off, contra-accounts or other rights of Debtors (other than defenses arising under the terms of an agreement between a Debtor and the ORIGINATOR in relation to a Receivable and any defense or claim in recoupment arising from the transaction that gave rise to the contract) against ORIGINATOR or its assigns are waived.
- (e) Payment by the Debtor is to be made in an Acceptable Currency.

25. Set-Off, Settlement, Clearing of Settlement Account

25.1 PURCHASER may (and is hereby authorized by the ORIGINATOR to), at any time, set-off, appropriate and apply (without presentment, demand, protest or other notice, the right to which is hereby expressly waived), any and all deposits, indebtedness or other obligations held or owing by PURCHASER with respect to Purchased Receivables, including any payment of the purchase price for Purchased Receivables and any balance in any Pledged Account with respect to Purchased Receivables against amounts then due and payable by the ORIGINATOR hereunder; provided that, for the avoidance of doubt, it is understood and agreed that PURCHASER may not set-off, appropriate or apply any such deposits, indebtedness or other obligations with respect to Receivables other than Purchased Receivables or to take recourse for its Bad Debt Coverage obligation. PURCHASER shall not be required to exercise any of its rights under this clause which shall be without prejudice to and in addition to any right of set-off or other similar right to which PURCHASER may at any time be entitled. Where any amounts due by PURCHASER to the ORIGINATOR, including those prospectively and contingently due, cannot immediately be ascertained, PURCHASER may make a reasonable estimate thereof.

25.2 Any amounts owing to ORIGINATOR and available to be transferred to ORIGINATOR, whether in the Settlement Account or any other account, shall be paid to ORIGINATOR automatically on each Business Day a purchase of Receivables takes place via wire transfer, ACH or any other means acceptable to PURCHASER and ORIGINATOR. Without limiting and in addition to ORIGINATOR's rights in the foregoing sentence, (i) PURCHASER also may, at its option, on any Business Day, transfer any balance in the Settlement Account in favor of the ORIGINATOR to the Originator Payment Account via wire transfer, ACH or any other means acceptable to PURCHASER and ORIGINATOR, and (ii) PURCHASER shall transfer any such balance at any time upon two (2) Business Days' written request by the ORIGINATOR.

25.3 If on any Business Day, the Settlement Account has a balance in favor of PURCHASER, PURCHASER may, at its option, (i) demand repayment of such deficiency from the ORIGINATOR, in which case the ORIGINATOR shall immediately repay such deficiency to PURCHASER in immediately available funds, (ii) net any such balance from the purchase price of future Receivables and their Related Assets to be sold hereunder and/or (iii) exercise its set-off rights under clause 25.1.

25.4 Unless expressly agreed otherwise, all obligations of the ORIGINATOR to PURCHASER arising from this Agreement, including without limitation, all obligations for fees, expense reimbursement and indemnities, will be due and owing immediately.

26. Counterclaims

The ORIGINATOR shall use reasonable efforts to promptly inform PURCHASER upon receiving notice from a Debtor of an actual Counterclaim made by such debt, and otherwise shall use commercially reasonable efforts to keep PURCHASER continuously informed about agreements with Debtors from which

Counterclaims may arise. Such agreements do not cause the Receivables to be non-Eligible if the Counterclaims have been secured in accordance with the following terms.

PURCHASER shall be entitled to establish by written notice to the ORIGINATOR (which may be included in the Report) a reserve or (at its choice) demand security deposits from the ORIGINATOR in the anticipated amount of the Counterclaims. The ORIGINATOR shall be entitled to provide a security deposit in an amount and in a form reasonably satisfactory to PURCHASER in order to discharge a reserve at any time. When determining the anticipated amount of the Counterclaims, future Counterclaims shall also be considered. These are claims that are certain or likely to arise in the future, but which amount and/or time of origination is still uncertain. To the extent that the determination of such claims depends on future events (e.g., development of sales), the amount shall be determined by way of a good faith estimate made by PURCHASER, in the absence of other indicators on the basis of historical data.

PURCHASER shall determine the amount of Counterclaims in its commercially reasonable discretion on a monthly basis, by the end of each month at the latest or, to the extent Counterclaims result from the sales of goods or services by Debtors to the ORIGINATOR, on a weekly basis, by the end of the week at the latest.

Within 10 Business Days of the end of each month, the ORIGINATOR shall provide a written report to PURCHASER setting forth the amount of Counterclaims as of the last day of the preceding month. However, to the extent Counterclaims result from the sales of goods or services by Debtors to the ORIGINATOR, the ORIGINATOR shall provide a written report within 1 Business Day of the end of each week setting forth the amount of the respective Counterclaims as of the last day of the preceding week.

PURCHASER shall by written notice to the ORIGINATOR (which may be included in the Report) establish a Counterclaim reserve by debiting the Settlement Account and crediting a Special Blocked Account by the relevant amount. If the anticipated amount of the Counterclaims is reduced, the Special Blocked Account will be debited by such reduction and a respective credit will be booked on the Settlement Account.

Security deposits will be provided by payment by the ORIGINATOR to PURCHASER, whereby the amount will be credited to the Special Blocked Account and any dissolution will be debited on the Special Blocked Account and credited on the Settlement Account.

The reserve and the security deposit shall protect PURCHASER against set-offs or settlements by Debtors with Counterclaims, but shall not protect PURCHASER against any Bad Debt Case. To the extent that such claims are legally and validly raised, PURCHASER is entitled to receive the relevant amounts as if they were Debtors' payments.

27. Tax- Gross-up and Tax Indemnity

27.1 All payments made or to be made by the ORIGINATOR under this Agreement shall be made in full without any deduction, withholding, set-off or counterclaim on account of any Taxes other than Excluded Taxes. If the ORIGINATOR is compelled by law to make any deduction or withholding, then it shall account for the same to the relevant authority as and when required by law, shall pay to PURCHASER all necessary additional amounts to ensure receipt and retention (free from any liability) by PURCHASER of the full amount which it would have received had the payment not been subject to the deduction, withholding, set-off or counterclaim and shall promptly provide to PURCHASER a certificate of deduction and such tax receipts and other documents as PURCHASER may require.

27.2 If any amount of, or in respect or on account of, Tax is or may be directly or indirectly imposed on or suffered by PURCHASER as a consequence of or in connection with any transaction governed by or carried out pursuant to the terms of this Agreement (other than any Excluded Tax), the ORIGINATOR shall (within three Business Days of demand by PURCHASER) indemnify PURCHASER in respect of the same.

27.3 This clause 27 shall survive the termination of this Agreement.

28. Indemnity

Without limiting any other rights which the Originator Indemnified Parties (as defined below) may have hereunder or under applicable law, the ORIGINATOR hereby agrees to indemnify PURCHASER and its successors, transferees and assigns and all officers, directors, shareholders, controlling persons, employees, counsel and other agents of any of the foregoing (collectively, "**Originator Indemnified Parties**") from and against any and all damages, losses, claims, liabilities, costs and expenses, including reasonable outside attorneys' fees and disbursements (all of the foregoing being collectively referred to as "**Originator Indemnified Amounts**") awarded against or incurred by any of them in any action or proceeding between the ORIGINATOR and any of the Originator Indemnified Parties or between any of the Originator Indemnified Parties and any third party or otherwise arising out of or as a result of this Agreement, any commitment or obligation of PURCHASER hereunder, the ownership or maintenance, either directly or indirectly, by PURCHASER or any other Originator Indemnified Party of any interest in any Receivable or its Related Assets or any of the other transactions contemplated hereby or thereby, excluding, however, the following ("**Excluded Amounts**") (i) Originator Indemnified Amounts to the extent resulting from gross negligence or wilful misconduct on the part of such Originator Indemnified Party as determined by a final non-appealable judgment by a court of competent jurisdiction, (ii) recourse for PURCHASER's Bad Debt Coverage obligation, (iii) the limited collection expenses which, pursuant to clause 17.3, are for the account of PURCHASER and (iv) Originator Indemnified Amounts relating to any Receivable that is not a Purchased Receivable unless such Originator Indemnified Amounts are costs, expenses or disbursements paid or payable to third parties. Without limiting the generality of the foregoing, the ORIGINATOR shall indemnify each Originator Indemnified Party for Originator Indemnified Amounts (excluding any Excluded Amounts) relating to or resulting from:

- (a) any representation or warranty made by the ORIGINATOR or any officer of the ORIGINATOR under or in connection with this Agreement or any information or report delivered by the ORIGINATOR pursuant hereto, which shall have been false or incorrect in any material respect when made or deemed made;
- (b) the failure by the ORIGINATOR to comply in any material respect with any applicable law with respect to any Receivable or the related contract, or the nonconformity of any Receivable or the related contract with any such applicable law;
- (c) any action or failure to act by ORIGINATOR that results in the failure to vest and maintain vested in PURCHASER a sole ownership interest in the Purchased Receivables and their Related Assets free and clear of any ownership interest, lien, security interest or other encumbrance (other than in favor of PURCHASER under this Agreement);
- (d) any action or failure to act by ORIGINATOR that results in the failure to vest and maintain vested in PURCHASER a first priority, perfected security interest in the Receivables not constituting Purchased Receivables and their Related Assets free and clear of any ownership interest, lien, security interest or other encumbrance;
- (e) [Reserved];
- (f) any dispute, claim, offset or defense (other than discharge in bankruptcy) of the Debtor to the payment of any Receivable (including a defense based on such Receivable or the related contract not being the legal, valid and binding obligation of such Debtor enforceable against it in accordance with its terms), or any other claim resulting from the sale of goods or services related to such Receivable or the furnishing or failure to furnish such goods or services (including, without limitation, any Dilution), but excluding (a) any Bad Debt Coverage, or (B) any dispute, claim, offset or defense arising from the action of, or the failure to act by, PURCHASER during such time as PURCHASER is exercising enforcement and collection rights with respect

to Receivables; unless ORIGINATOR gave its prior written consent to the action of PURCHASER;

- (g) any products liability claim or personal injury or property damage suit or other similar or related claim or action of whatever sort arising out of or in connection with goods or services relating to or which are the subject of any Receivable;
- (h) the transfer of an interest in any Purchased Receivable to PURCHASER other than a Purchased Receivable which is Eligible;
- (i) the failure by the ORIGINATOR to comply with any term, provision or covenant contained in this Agreement or to perform any of its respective duties under the Receivables or related contracts;
- (j) the failure of the ORIGINATOR to pay when due any sales, excise or personal property Taxes payable in connection with any of the Receivables;
- (k) the commingling by the ORIGINATOR of Collections of Receivables at any time with other funds;
- (l) any investigation, litigation or proceeding related to this Agreement, the use of proceeds of purchases by the ORIGINATOR, the ownership of the Receivables or the Related Assets;
- (m) failure of any depository bank to remit any amounts held in the Pledged Accounts or any related lock-boxes pursuant to the instructions of PURCHASER whether by reason of the exercise of set off rights or otherwise;
- (n) any inability to obtain any judgment in or utilize the court or other adjudication system of, any state or commonwealth in which a Debtor may be located as a result of the failure of the ORIGINATOR to qualify to do business or file any notice of business activity report or any similar report;
- (o) any attempt by any person or entity to void, rescind or set-aside any transfer by the ORIGINATOR to PURCHASER of any Receivable or Related Asset under statutory provisions or common law or equitable action, including any provision of any insolvency law;
- (p) any action taken by the ORIGINATOR in the enforcement or collection of any Receivable other than (l) such time as PURCHASER is exercising enforcement and collection rights with respect to Receivables, or (ll) any enforcement or collection action with respect to Purchased Receivables in accordance with Section 17.3; or
- (q) [Reserved].

This clause 28 shall survive the termination of this Agreement.

29. Fees and Expenses

29.1 The amount of certain fees is set out in Schedule 1 (Terms and Conditions).

29.2 The ORIGINATOR will bear all customary account keeping and payment transaction fees (including, without limitation, fees for wire transfer, ACH transfer and other similar services), as well as any expenses that may be incurred by PURCHASER acting upon its instructions or in its presumed interest.

29.3 In addition to and not in limitation of the foregoing, the ORIGINATOR shall promptly on demand pay PURCHASER (a) all costs and expenses of PURCHASER incurred in connection with PURCHASER'S due diligence of the transactions contemplated by this Agreement and (b) all external legal fees and expenses charged by McMillan LLP as legal adviser to PURCHASER in connection with the negotiation,

preparation, printing, execution and perfection of this Agreement or any other document in connection with this Agreement, irrespective of whether or not this Agreement becomes effective pursuant to clause 12.

The ORIGINATOR also agrees to pay on demand (a) all reasonable and documented costs incurred by PURCHASER in connection with the enforcement of this Agreement (including reasonable fees and expenses of its agents, consultants, attorneys and other advisors to PURCHASER incurred in connection with any of the foregoing or in advising PURCHASER as to its respective rights and remedies under this Agreement) and (b) all stamp and other Taxes (except for Excluded Taxes) and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement.

Further, if the ORIGINATOR requests an amendment, waiver or consent of this Agreement or any other document delivered in connection herewith, the ORIGINATOR shall, promptly on demand, reimburse PURCHASER for the amount of all reasonable and documented costs (including reasonable fees and expenses of its agents, consultants, attorneys and other advisors to PURCHASER) incurred by it in connection with the negotiation, preparation and execution of such amendment, waiver or consent. However, the ORIGINATOR shall only be obligated to pay external legal fees and expenses if a respective fee estimate has been provided by PURCHASER and the ORIGINATOR has agreed to it, which agreement shall not be unreasonably withheld, conditioned or delayed.

Further, (i) if any amendment, waiver or consent under the Credit Agreement is entered into or issued, (ii) the Credit Agreement is refinanced, or (iii) if there is a corporate restructuring affecting the ORIGINATOR, the ORIGINATOR shall, promptly upon demand, reimburse PURCHASER for the amount of all reasonable and documented costs (including reasonable fees and expenses of its agents, consultants, attorneys and other advisors to PURCHASER) incurred by it in connection with any related amendments to this Agreement or any documentation in connection with this Agreement to the extent legally necessary in order to uphold Purchaser's rights agreed under this Agreement. However, the ORIGINATOR shall only be obligated to pay external legal fees and expenses if a respective fee estimate has been provided by PURCHASER and the ORIGINATOR has agreed to it, which agreement shall not be unreasonably withheld, conditioned or delayed.

29.4 This clause 29 shall survive the termination of this Agreement.

30. Currency.

If, for purposes of obtaining judgment against the ORIGINATOR or for any other reason in connection with this Agreement, it becomes necessary to convert into Canadian Dollars an amount due in United States Dollars, or vice versa, then the conversion shall be made at the rate of exchange prevailing on the last business day in Toronto, Ontario and New York, NY before the day on which the judgment is rendered or such conversion is made. In the event that there is a change in the rate of exchange prevailing between the day before the day on which the judgment is rendered or on which such conversion is otherwise required, and the date of payment of the amount due, the ORIGINATOR will pay such additional amount(s) as may be necessary to ensure that the amount paid on such date is the amount in Canadian Dollars or United States Dollars, as applicable, which, when converted at the rate of exchange prevailing on the date of payment, is the amount then due in United States Dollars or Canadian Dollars, as applicable. Any amount due by you under this paragraph shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under this Agreement.

This clause 30 shall survive the termination of this Agreement.

31. Interest Act

For the purposes of disclosure under the Interest Act (Canada), where any fee, interest or charge is calculated on the basis of a period of time other than a calendar year, such rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on such period of time multiplied by (y) the actual number of days in the calendar year in which the period for which such interest or fee is calculated ends, and divided by (z) the number of days in such period of time.

32. Criminal Rate

In the event that the aggregate payments hereunder constituting "interest" as such term is defined in Section 347 of the Criminal Code (Canada) exceed the effective annual rate of interest lawfully permitted hereunder, such payments shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate, as the case may be, as would not be so prohibited by law or would not so result in a receipt of payments of interest at a criminal rate.

33. Successors and Assigns.

This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; provided, however, that the ORIGINATOR may not sell, assign or otherwise transfer this Agreement or any of its rights or obligations hereunder without PURCHASER's prior written consent, which may be given or withheld in PURCHASER's absolute discretion. PURCHASER shall have the right without the consent of or notice to the ORIGINATOR to sell, assign, transfer, negotiate, or grant participations or security interests in all or any part of, or any interest in, (a) PURCHASER's obligations, rights and benefits hereunder or (b) the Purchased Receivables.

34. Commencement, Expiration, Termination, Remedies Upon Default

34.1 The Commencement Date and Expiration Date of this Agreement are set out in Schedule 1 (Terms and Conditions).

34.2 Unless PURCHASER's commitment to purchase Receivables in accordance with this Agreement is terminated, or unless ORIGINATOR elects to terminate this Agreement, in each case with three months' written notice prior to its scheduled Expiration Date, it shall be extended by another year. The same shall apply to any subsequent periods. Any such termination notice may be given by either the ORIGINATOR or PURCHASER and must be made in writing.

34.3 Upon termination of PURCHASER's commitment to purchase Receivables, all purchase offers, which have not yet been accepted, shall expire. All pending transactions shall be unwound in accordance with this Agreement.

This Agreement shall terminate when all of the following conditions are satisfied: (i) PURCHASER's commitment to purchase Receivables is terminated in accordance with the terms of this Agreement, (ii) all of the ORIGINATOR's financial obligations under this Agreement are repaid in full in cash and (iii) the outstanding principal balance of all Purchased Receivables is collected and received by PURCHASER. Upon such termination, PURCHASER will (i) release its security interest in any collateral and (ii) turn over to the ORIGINATOR any payments received into any Purchaser Account (other than Collections on Purchased Receivables).

34.4 Upon the occurrence and during the continuation of an Event of Default, PURCHASER may, in its discretion, terminate its obligation to purchase any Receivables and their Related Assets not already purchased at that time. Any such election must be made in writing and shall be effective immediately. Notwithstanding the foregoing, upon the occurrence of any Event of Default of the type described in clause (d) of the definition thereof in respect of the ORIGINATOR, PURCHASER shall automatically be deemed to have made such election, which election shall be effective immediately without any need for notice or other action of any kind.

Upon the occurrence and during the continuation of an Event of Default, PURCHASER shall have, in addition to all other rights and remedies under this Agreement or otherwise, all other rights and remedies provided under the UCC of the applicable jurisdiction and other applicable laws, all of which rights shall be cumulative.

35. Further Elements of this Agreement

(a) Schedule 1 (Terms and Conditions)

In the event of any discrepancies between Schedule 1 (Terms and Conditions) and this Agreement, the provisions of Schedule 1 (Terms and Conditions) shall prevail.

(b) Schedule 2 (Transfer of Data)

(c) Schedule 3 (Conditions Precedent)

Schedule 3 sets out certain conditions precedent referred to in clause 12 of this Agreement.

36. Governing Law, Jurisdiction

36.1 This Agreement shall be governed by the laws of the State of New York, without giving effect to conflicts of law principles (other than Section 5-1401 and 5-1402 of the General Obligations Law of the State of New York). This Agreement is not governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded.

36.2 Each of the parties hereto irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or federal court of the United States sitting in the Borough of Manhattan, New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the extent permitted by law, in such federal court. A final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

36.3 Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court located in the Borough of Manhattan.

36.4 Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of inconvenient forum to the maintenance of such action or proceeding in any such court.

37. Severability Clause

If any provisions of this Agreement or the schedules thereto are or become invalid in full or in part, the validity of the remaining provisions will not be affected thereby. The invalid provision shall be replaced by the provision which is valid and effective and comes closest to the economic intention of the parties.

If any sale or assignment of any portion of a Purchased Receivable or its Related Assets should be or become ineffective, PURCHASER and the ORIGINATOR will treat each other as if the relevant transfers were effective and such parties will take such actions as may be appropriate to make sure transfers effective. If for any reason any grant of a security interest in this Agreement shall become ineffective, PURCHASER and the ORIGINATOR will treat each other as if the relevant grants were effective and such parties will take such actions as may be appropriate to make sure grants effective and perfected.

38. No Waiver

No failure to exercise, nor any delay in exercising, on the part of PURCHASER, any remedy or other right under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any remedy or other right prevent any further or other exercise or the exercise of any other right. The remedies and other rights provided in this Agreement are cumulative and not exclusive of any remedies and other rights provided by law.

39. Counterparts

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement. Delivery by facsimile of an executed signature page of this Agreement shall be effective as delivery of an original executed counterpart hereof.

40. Information on Accounts

The PURCHASER undertakes to provide the ORIGINATOR without being requested to do so on an ongoing basis and without undue delay about the bookings made to the Accounts and other relevant information by delivery of the Report.

41. Further Assurances and Conditions Subsequent

The ORIGINATOR and PURCHASER agree to do and perform, from time to time, any and all acts and to execute any and all further instruments required or reasonably requested by the other party to more fully effect the purposes of this *Agreement*.

42. Notices

39.1 All formal notices delivered under this Agreement or any related agreement shall be in writing. As used in this Agreement, the term "written notice" shall include notices sent electronically, including any attachment to an e-mail or transmissions via SFTP-Servers (by way of example but not limitation, a .pdf file, or a MS Excel or MS Word file).

39.2 All written notices or other written communications from PURCHASER to the ORIGINATOR will be deemed to be received by the ORIGINATOR:

- (a) When delivered to the ORIGINATOR's address specified in Schedule 3 (which such address may be modified by ORIGINATOR from time to time with ten (10) Business Days prior notice);
- (b) When sent by facsimile, electronic mail or message or other electronic equipment (e.g., SFTP-Server) to the applicable number or address specified in Schedule 3 (which such address may be modified by ORIGINATOR from time to time with ten (10) Business Days prior notice); or
- (c) [Reserved].

whichever is the earliest, notwithstanding return through the post (in the case of a mailing), or the dissolution of the ORIGINATOR.

43. Definitions

Acceptable Currency: Any currency set out in Schedule 1 (Terms and Conditions).

Accounts: The Accounts maintained pursuant to this Agreement: Factoring Account, Incoming Payment Settlement Account, Purchase Price Reserve Account, Special Blocked Account, Settlement Account, Special Account, Special Purchase Prices Reserve Account and Special Settlement Account.

Affiliate: With respect to any person or entity, a second person or entity which, directly or indirectly, controls or is controlled by or is under common control with such first person or entity, or a second person or entity which beneficially owns or holds, directly or indirectly, 25% or more of any class of voting shares of such first person or entity, or a second person or entity in which 25% of any class of voting shares is beneficially owned or held directly or indirectly, by such first person or entity.

Agreement: This Receivables Sale Agreement as amended, supplemented or otherwise modified from time to time.

Anti-Money-Laundering Laws: Any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to the ORIGINATOR, SDI, PURCHASER and each of their Affiliates, related to terrorism financing or money laundering including any applicable provision of the USA PATRIOT Act and The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act," 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), and in each case, any analogous law of Canada or any other jurisdiction other than the United States, in each case, as amended from time to time and any successors thereto.

Bad Debt Amount: Amount corresponding to the purchase price for the relevant Purchased Receivable which has become subject to a Bad Debt Case net of any payments made by the relevant Debtor in respect of the purchase price (which amounts are offset against the purchase price for calculating the applicable Bad Debt Amount). The balance shall be credited or debited, as the case may be, to the Settlement Account.

Bad Debt Case: Occurrence of an event referred to in clause 6.2.

Bad Debt Coverage: Obligation of PURCHASER to bear the Bad Debt Amount in the Bad Debt Case.

Business Days: All calendar days except for Saturdays, Sundays and any public holidays and bank holidays applicable in Mainz, Germany, Toronto, Ontario or in New York City.

Change of Control: Any transaction following which Mid-Ocean and/or Affiliates thereof shall cease to collectively (a) control or own a majority of the beneficial direct or indirect interest in ORIGINATOR or (b) have the right to elect a majority of the board of directors of the ORIGINATOR.

Collections: With respect to any Receivable: (a) all funds that are received by the ORIGINATOR, PURCHASER or any other person or entity on the ORIGINATOR's or PURCHASER's behalf in payment of any amounts owed in respect of such Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Debtor or any other person or entity directly or indirectly liable for the payment of such Receivable and available to be applied thereon), (b) all proceeds of all Related Assets with respect to such Receivable and (c) all other proceeds of such Receivable.

Collection Procedure: Procedure instigated to collect Receivables, including legal dunning procedures by external counsel, judicial court proceedings and foreclosure proceedings until the final settlement of the proceeding.

Commencement Date: The Commencement Date referred to in Schedule 1 (Terms and Conditions).

Control Agreement: An agreement in form and substance satisfactory to PURCHASER, among PURCHASER, the ORIGINATOR and the bank at which a Pledged Account is established, that provides, among other things, PURCHASER with exclusive control over, and a security interest in, such Pledged Account, the transfer of collected funds in the Pledged Account to PURCHASER and requires such bank to continue to deposit into such Pledged Accounts any items of payment received into any related lock-box; or such other terms as are acceptable to PURCHASER to account for any Permitted Liens on funds for non-Purchased Receivables that may from time to time be collected funds in the applicable Pledged Account.

Counterclaims: Claims of Debtors vis-à-vis the ORIGINATOR, which do not result in a direct reduction of individual Receivables, in particular claims based on a relevant period and/or the volume of sales (bonuses etc.), and claims arising from certain operations/events (marketing contributions,

anniversary bonuses etc.) and claims in respect of sales of goods or services by Debtors to the ORIGINATOR.

Customer Group: KidKraft Inc., 4630 Olin Road Dallas, TX 75244, United States of America, Solowave Design Corp., 4630 Olin Road, Dallas, TX 75244, United States of America and Solowave Design LP, c/o KidKraft Inc., 4630 Olin Road Dallas, TX 75244, United States of America.

Credit Agreement: Amended and Restated First Lien Credit Agreement dated as of April 3, 2020 among KIDKRAFT INTERMEDIATE HOLDINGS, LLC, as Holdings, KIDKRAFT, INC., as the Borrower, THE OTHER GUARANTORS PARTY THERETO FROM TIME TO TIME, ANTARES CAPITAL LP, as Administrative Agent and Collateral Agent, ANTARES HOLDINGS LP, as Swing Line Lender, BBVA USA, as L/C Issuer and THE OTHER LENDERS PARTY HERETO FROM TIME TO TIME, as such Credit Agreement may be amended, supplemented, modified, amended and restated, replaced or refinanced from time to time.

Debtor Limit: The maximum amount available to fund purchases of Receivables against a particular Debtor. The extent of its utilization is equal to the sum of all outstanding Purchased Receivables. Debtor Limits are established pursuant to clause 7.

Debtors: Those counterparties of, or other persons who owe amounts to, the ORIGINATOR under contracts pursuant to which the ORIGINATOR owes the delivery of goods and/or the rendering of services for which the relevant counterparty owes payment set out in Schedule 1 (Terms and Conditions) together with such other counterparties that may be agreed in writing between PURCHASER and the ORIGINATOR as being Debtors for the purposes of this Agreement. For purposes of this Agreement, a Debtor shall also include any guarantor or co-obligor of such person or entity for any Receivables that are the subject of this Agreement.

Dilution: A reduction in the outstanding principal balance of any Purchased Receivable attributable to credits, rebates, billing errors, sales or similar Taxes, cash discounts, volume discounts, allowances, disputes, set-offs, counterclaims, chargebacks, credits for returned or repossessed goods, sales and marketing discounts, warranties, any credit memos (whether applied or unapplied) and any other adjustments that are made in respect of Debtors, except any write-off in respect of a Bad Debt Case.

Directed Account: Either a Pledged Account or a Purchaser Account.

Disclosed Procedure: Purchase procedure in which the sale and assignment of (or, if applicable, security interest in) Receivables is disclosed to the Debtors.

Eligible: In respect of a Receivable, any Receivable that:

- (a) is a valid, current and a freely sellable and assignable "account" or "general intangible" within the meaning of the PPSA (if governed by the laws of one of the Provinces of Canada) or Section 9.102 of the UCC (if governed by the laws of one of the United States) in each case as of the purchase date relating thereto, and is not evidenced by any instrument or chattel paper;
- (b) as of the date of purchase hereunder, (1) is payable in an amount not less than the amount identified by the ORIGINATOR in the applicable Receivables Notification and (2) the ORIGINATOR has no knowledge of any fact (including any defaults by the applicable Debtor thereunder on any other Receivable) that causes it to expect that the entire outstanding principal amount of such Receivable on such date will not be paid in full when due;
- (c) is based on an actual and bona fide rendition of services or sale of goods by the ORIGINATOR in the ordinary course of its business that have been fully rendered or fully delivered and otherwise fully performed as of the purchase date relating thereto; payments thereon are not

contingent upon the ORIGINATOR's fulfillment of any further obligation; and if arising out of the sale of services, such services have been accepted by the Debtor;

- (d) (1) no portion of which is in respect of any amount as to which the related Debtor is permitted to withhold payment until the occurrence of a specified event or condition (including "guaranteed" or "conditional" sales or any performance by the ORIGINATOR), (2) is not owed to the ORIGINATOR as a bailee or consignee for another person or entity and (3) is not issued under cash-in-advance or cash-on-account terms;
- (e) is payable in full on the due date with respect thereto and is not an installment receivable;
- (f) (i) as of the date of purchase hereunder, is not past due and (ii) has a due date less than or equal to 120 days from the date of issuance which due date was not extended after issue of the invoice relating to such Receivable;
- (g) arises under a contract governed by the law of one of the Provinces of Canada or the laws of one of the United States in each case that is in full force and effect and constitutes the legal, valid and binding obligation of the related Debtor to pay such Receivable enforceable against such Debtor in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to and limiting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or in law);
- (h) together with the contract related thereto, does not contravene any law applicable thereto in any material respect (including laws relating to usury, consumer protection, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices, privacy, anti-money laundering and anti-terrorism);
- (i) is denominated and payable only in an Acceptable Currency in the United States or Canada;
- (j) as of the date of purchase hereunder, is not subject to a Bad Debt Case;
- (k) is not owed by the government of Canada or any Province of Canada, or any department, agency, public corporation, or instrumentality of Canada or any Province of Canada;
- (l) is net of, and not subject to, any contractual allowances, set-offs (including defenses arising out of violations of usury laws), counterclaims, side agreements, credits, deductible limitations, commissions, fees, or other discounts other than those offsets reflected in the calculation of the purchase price as of the purchase date relating thereto;
- (m) it is not owed by a member of the Group, a material creditor of the ORIGINATOR or by one or more individual consumers;
- (n) is not the subject of any action, suit, proceeding or dispute (whether actual, pending or threatened), setoff, counterclaim, defense, abatement, suspension, deferment, deductible, reduction or termination by the Debtor thereof;
- (o) is sold hereunder in good faith and without actual intent to hinder, delay or defraud present or future creditors of PURCHASER, ORIGINATOR or any of their Affiliates;
- (p) is not subject to a consent requirement by any third party to the sale or other transfer of such Receivable or its Related Assets or the grant of a security interest or other lien in such Receivable or its Related Assets other than consents previously obtained in writing by the ORIGINATOR and acceptable to PURCHASER;

- (q) upon becoming a Purchased Receivable, will not be subject to any ownership interest, lien, security interest or other encumbrance (except those granted in favor of PURCHASER under this Agreement); no effective financing statement or other instrument similar in effect covering such Receivable listing ORIGINATOR or a Group member as "Debtor" is on file in any recording office (except those filed in favor of PURCHASER relating to this Agreement and Permitted Liens provided such Permitted Liens shall ceased to be liens upon the Receivable becoming a Permitted Receivable), and no competing notice or notice inconsistent with the transactions contemplated in this Agreement remains in effect with respect to the applicable Debtor;
- (r) is not subject to value added Tax or any similar charge by any Official Body in any jurisdiction;
- (s) the revenue with respect to which has been recognized by the ORIGINATOR in accordance with GAAP;
- (t) arises from a contract that is not subject to a confidentiality provision or similar covenant of non-disclosure that would restrict the ability of PURCHASER to fully exercise or enforce its rights under this Agreement;
- (u) the invoice for which has been issued to the Debtor within 5 days after the relevant goods or services have been delivered by the ORIGINATOR; and
- (v) the invoice for which is offered to the PURCHASER: not later than the time period specified in clause 2.2; provided that this condition shall not be applicable in the case of the initial Utilization hereunder.

In addition to the criteria set forth in the preceding clauses, in order for a Receivable to qualify as Eligible, (a) such Receivable shall be evidenced by paper or electronic invoices or data files in form and substance satisfactory to PURCHASER, (b) the invoices or data files, as applicable, and the other information provided by the ORIGINATOR with respect to each such Receivable must be complete and correct and all documents, attestations, contracts and agreements relating thereto that have been delivered to PURCHASER are true and correct, (c) the ORIGINATOR shall have billed the applicable Debtor and delivered to such Debtor and invoice and all requested supporting claim documents with respect to such Receivable, (d) no amounts with respect to such Receivable shall have been paid as of the date and time of the purchase of such Receivable and (e) all information set forth in the invoice or data files, as applicable, and supporting claim documents with respect to such Receivable shall be true, complete and correct.

Event of Default: The occurrence of any one or more of the following events:

- (w) the ORIGINATOR shall fail to make any payment or deposit to be made by it hereunder due hereunder and such failure shall continue for five Business Days following the earlier of (1) PURCHASER giving written notice (through other means than the Report) to the ORIGINATOR of such failure and (2) the ORIGINATOR obtains actual knowledge of such failure; or
- (x) any representation, warranty, certification or statement made or deemed made by the ORIGINATOR in this Agreement or in any other information, report or document delivered pursuant hereto shall prove to have been incorrect in any material respect when made or deemed made or delivered; or
- (y) the ORIGINATOR shall default in the in the performance of its obligations or covenants to be performed or observed under any clause(s) 5, 11, 14, 17 and 26, and any such failure shall continue for five (5) Business Days following the earlier of (1) PURCHASER giving written notice (through other means than the Report) to the ORIGINATOR of such failure and (2) the ORIGINATOR obtains actual knowledge of such failure; or

- (z) the ORIGINATOR shall default in the performance of any obligation or covenant (other than as set forth above in clauses (a), (b) or (c)) to be performed or observed under any other provision of this Agreement and such failure shall continue for twenty (20) Business Days following the earlier of (1) PURCHASER giving written notice (through other means than the Report) to the ORIGINATOR of such failure and (2) the ORIGINATOR obtains actual knowledge of such failure; or
- (aa) any Insolvency Event shall occur with respect to the ORIGINATOR; or
- (bb) PURCHASER shall for any reason fail or cease to have a valid and enforceable sole ownership interest or perfected first priority security interest, as applicable, in the Purchased Receivables and their Related Assets, free and clear of any other ownership interest, security interest, lien or other encumbrance; or
- (cc) PURCHASER shall for any reason fail or cease to have a valid and enforceable perfected first priority security interest in the Receivables (until such time as any Receivable becomes a Purchased Receivable) and their Related Assets, free and clear of any other ownership interest, security interest, lien or other encumbrance except for Permitted Liens; or
- (dd) occurrence of an event of default under the Credit Agreement after all applicable notice and cure periods have lapsed; or
- (ee) [Reserved]; or
- (ff) there shall exist any judgment, decree, levy, attachment, garnishment or other process, or any lien, security interest or other encumbrance shall be filed against the ORIGINATOR involving in the aggregate a liability in excess of \$ 5,000,000 (not paid or to the extent not covered by a reputable and solvent insurance company which has not disclaimed coverage) and such judgment, decree, levy, attachment, garnishment or other process or any lien, security interest or other encumbrance either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 30 consecutive days; or
- (gg) [Reserved]; or
- (hh) a Change of Control shall occur unless approved in writing in advance by PURCHASER; or
- (ii) Any material provision of this Agreement shall cease to be in full force and effect or the ORIGINATOR shall so state in writing; or
- (jj) ORIGINATOR or any officer thereof engages in any act of fraud, embezzlement, misappropriation or theft in connection with the Receivables, the Related Assets or the Collections (it being understood for the avoidance of doubt that any Event of Default occurring under this subclause (l) shall continue to exist unless PURCHASER, in its discretion, expressly waives such Event of Default in writing); or
- (kk) An event or condition which, either individually or together with any related events or conditions, has caused a Material Adverse Effect.

Exchange Act: The Securities Exchange Act of 1934, as amended.

Excluded Taxes: With respect to any payment made or to be made by the ORIGINATOR under this Agreement, (a) income or franchise taxes imposed on (or measured by) the net income of PURCHASER, (b) any branch profits taxes imposed by Canada, any Province of Canada or the United States of America on PURCHASER and (c) any deduction, withholding, setoff or counterclaim on account of Taxes that is attributable to PURCHASER's failure to furnish, at the ORIGINATOR's request and

thereafter at the times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law as will permit such payment to be made without withholding or at a reduced rate (but only to the extent PURCHASER is entitled to furnish such documentation under applicable law).

Expiration Date: The Expiration Date referred to in Schedule 1 (Terms and Conditions).

Factoring Account: Account on which the Purchased Receivables are booked in their aggregate amount.

Factoring Commission: The percentage rate set out in Schedule 1 (Terms and Conditions).

Format Specification: PURCHASER's commercially reasonable requirements, which PURCHASER shall deliver to ORIGINATOR, for information to be provided by the ORIGINATOR in electronic form about invoices, credit notes, payments or open items.

Full-Service-Purchase: Purchase procedure in which the accounts receivable bookkeeping and dunning procedure are performed by PURCHASER.

GAAP: Generally accepted accounting principles.

Governmental Authority: Any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government in any jurisdiction (including any supra-national bodies such as the European Union or the European Central Bank).

Group: KidKraft Intermediate Holdings, LLC, 4630 Olin Road Dallas, TX 75244, United States of America, and the Customer Group together with any wholly owned Subsidiary of any member of the Customer Group.

Incoming Payment Settlement Account: Account on which in the Inhouse-Purchase incoming payments are booked by interim posting until the Reconciliation Process has been performed (see clause 13.2).

Inhouse-Purchase: Purchase procedure in which the accounts receivable bookkeeping and dunning procedure are performed by the ORIGINATOR as servicer for PURCHASER.

Insolvency Event: With respect to any person or entity, such person or entity shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against such person or entity seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 30 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or such person or entity shall take any action to authorize any of the actions set forth above in this definition.

Material Adverse Effect: Any event or condition which would have a material adverse effect on (a) the value, validity, collectability or enforceability of the Purchased Receivables by the ORIGINATOR or PURCHASER, (b) the condition (financial or otherwise), businesses or properties of the ORIGINATOR, (c)

the ability of the ORIGINATOR to perform its respective obligations under this Agreement, or (d) the rights or interests of PURCHASER under this Agreement.

Maximum Commitment: The amount which the Utilization may not exceed. The amount of the Maximum Commitment is set out in Schedule 1 (Terms and Conditions).

Mid-Ocean: Any of (i) MidOcean Partners IV, L.P. and (ii) any of its Affiliates, and funds or partnerships managed or advised by any of them or any of its respective Affiliates but not including, however, any portfolio company of any of the foregoing.

Monthly Account Statement: Written summary of the balances of all Accounts as of the end of each calendar month.

Nominal Amount: The final amount set out in the invoice for the relevant Receivable.

Notification of Dispute: Notification by the ORIGINATOR or the Debtor to PURCHASER that the Debtor claims the existence of an event or condition which would cause a Receivable not to be Eligible in accordance with the definition thereof or subject to Dilution.

OFAC: The U.S. Treasury Department Office of Foreign Assets Control (or any successor office or agency).

Official Body: Any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of any such government or political subdivision, or any court, tribunal, grand jury or arbitrator, or any accounting board or authority (whether or not a part of government) which is responsible for the establishment or interpretation of national or international accounting principles, in each case whether foreign or domestic.

Open Items File: List of all Receivables which are existing and unpaid at the time when the list is compiled.

Originator Payment Account: The Originator Payment Account referred to in Schedule 1 (Terms and Conditions).

Partial Termination: An election by PURCHASER to terminate the Inhouse-Purchase, the Undisclosed Procedure or both in accordance with clause 15.1.

Permitted Liens: Any liens or security interests on Receivables or Related Assets granted under or pursuant to the Credit Agreement, including any refinancing, replacement, extension, or other modification thereof; provided, however, such Permitted Liens cease to be liens upon any Receivable becoming a Purchased Receivable; provided, further, ORIGINATOR and PURCHASER acknowledge and agree that such liens may continue in the purchase price received by ORIGINATOR as proceeds derived from the sale of Receivables and Related Assets to the Purchaser.

Person: Any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

Pledged Accounts: The bank accounts referred to as Pledged Accounts in Schedule 1 (Terms and Conditions).

PPSA: The Personal Property Security Act of the Province of Ontario.

Purchase Price Adjustment: With respect to any Purchased Receivable, the product of (a) the Factoring Commission applicable to such Purchased Receivable and (b) the Nominal Amount of such Purchased Receivable.

Purchase Price Reserve: Amount corresponding to the percentage rate set out in Schedule 1 (Terms and Conditions) of the Nominal Amount.

Purchase Price Reserve Account: Account on which the Purchase Price Reserve is booked (see clauses 4.1 and 4.2).

Purchased Receivable: Any Receivable which has been purchased or purported to be purchased by PURCHASER under this Agreement.

Purchaser Accounts: The bank accounts of PURCHASER referred to as Purchaser Accounts in Schedule 1 (Terms and Conditions).

Receivable: Any existing or future right to payment of a monetary obligation, whether or not earned by performance, owed to the ORIGINATOR by a Debtor, whether constituting an account, instrument, document, contract right, general intangible, chattel paper or payment intangible, in each instance solely as an account receivable for and arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto. Any such right to payment arising from any one transaction, including, without limitation, any such right to payment represented by an individual invoice, contract or other agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction.

Receivables Notification: Notification of a certain Receivable by the ORIGINATOR to PURCHASER. Several notifications of Receivables can be combined in one Receivables Notification.

Reconciliation Process: Reconciliation of PURCHASER's Open Items File with the Open Items File provided by the ORIGINATOR.

Related Assets: With respect to any Receivable:

- (a) all of the ORIGINATOR's interest in any goods (including returned goods) and documentation of title evidencing the shipment or storage of any goods (including returned goods), relating to any sale giving rise to such Receivable;
- (b) all other ownership and inchoate rights in the underlying assets with respect to such Receivable that the ORIGINATOR may have or acquire;
- (c) in the event of a sale by consignment, any claims against the consignee;
- (d) all instruments and chattel paper that may evidence such Receivable;
- (e) all of the ORIGINATOR's rights, interests and claims against third parties relating to such Receivables including, without limitation, shippers and carriers;
- (f) all security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the contract related to such Receivable or otherwise, together with all financing statements or other similar documents describing any collateral securing such Receivable;
- (g) all Collections thereon including, without limitation, all Tax refunds;
- (h) the contract giving rise to such Receivable and all guaranties, insurance and other agreements or arrangements of whatever character from time to time supporting or securing payment of such Receivable whether pursuant to such contract or otherwise;

- (i) all books, records and other information (including, without limitation, computer programs, tapes, discs, punch cards, data processing software and related property and rights) relating to such Receivable and the related Debtor; and
- (j) all proceeds of any of the foregoing.

Report: Report created by the PURCHASER showing, *inter alia*, the balance of each Account.

Repurchase Price: The Nominal Amount of a Purchased Receivable (without duplication, net of any Dilution existing at the time of PURCHASER's purchase of the relevant Repurchased Receivable and that reduced the purchase price paid to ORIGINATOR for such Repurchased Receivable) minus all Collections on such receivable actually received and applied by PURCHASER minus the Purchase Price Adjustment for such Purchased Receivable that has been previously paid by the ORIGINATOR to the PURCHASER.

Restricted Person: A person or entity that (i) is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 issued by the President of the United States; (ii) a person that is named as a "specially designated national and blocked person" on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list or similarly named by any similar foreign Official Body; (iii) an Official Body, or a person or entity resident in a country that is subject to a sanctions program identified on the lists maintained by OFAC; or (iv) a person or entity that derives more than 10% of its assets or operating income from investments in or transactions with any such country, agency, organization or person.

Settlement Account: Account on which all claims of the ORIGINATOR vis-à-vis PURCHASER (e.g., purchase price payments for Purchased Receivables, including Purchase Price Reserves that have been released, Debtor's payments in respect of Receivables which have not been purchased) and claims of PURCHASER against the ORIGINATOR (e.g., commission claims, claims for reimbursement based on performance defaults) as well as disbursements to the ORIGINATOR are booked and offset against each other.

Special Account: Account on which the Receivables which have not been purchased are booked.

Special Blocked Account: Account showing the anticipated amount of Counterclaims (see clause 26).

Special Purchase Price Reserve: Reserve established as the result of a Notification of Dispute which shall not exceed, however, (i) the part of the purchase price that was previously credited, or (ii) the amount of the related Purchased Receivable that is disputed by the Debtor or the amount of the related Dilution, as the case may be.

Special Purchase Price Reserve Account: Account on which Special Purchase Price Reserves resulting from Notifications of Disputes are booked (see clause 4.1).

Special Settlement Account: Technical offset account to the Special Account.

Subsidiary: With respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50.0% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of such Person or a combination thereof; provided that in determining the percentage

of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

Tax: Any tax, assessment, levy, import duty, or other governmental charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

UCC: The Uniform Commercial Code in effect in the State of New York; provided that when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any asset, the term "UCC" shall mean the Uniform Commercial Code as in effect from time to time in such state. The terms "accounts", "instruments", "documents", "chattel paper", "deposit accounts", "general intangibles" and "payment intangibles", as used herein, shall have the respective meanings ascribed to such terms in the UCC. Notwithstanding the foregoing, such terms shall also have the extended meanings ascribed to them in the PPSA.

Unable to Pay: Means with respect to a Debtor that such Debtor is unable to pay its debts as and when they fall due. Unable to Pay is generally presumed if the Debtor generally ceases to make payments.

Undisclosed Procedure: Purchase procedure in which the sale and assignment of Purchased Receivables is not initially, but only in the Collection Procedure, disclosed.

Utilization: Sum of the balances on all Accounts held for the ORIGINATOR in accordance with this Agreement.

VAT: Means the Harmonized Sales Tax, the Goods and Services Tax, the Quebec Sales Tax, or any other value added tax as per any applicable laws of Canada, the United States or Germany, as the case may be.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective authorized representatives as of the date first specified above.

Solowave Design LP, acting by its sole general Partner, **Solowave Design Inc.**
as Originator

By: 

Name: GEORGEY WALKER

Title: CEO

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective authorized representatives as of the date first specified above.

Solowave Design LP, acting by its sole general Partner, **Solowave Design Inc.**
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By: _____
Name: *Ansgar Langelstocht* *Timo Hüller*
Title: *MD* *Proxy*

Schedule 1 (Terms and Conditions)

1. Debtors included in the Receivables Sale Agreement:

Debtor Name	Street, Postal code, City	Country
CANADIAN TIRE CORPORATION LIMITED	2180 Yonge Street, Toronto, Ontario, M4S 2B9	Canada
Costco Wholesale Canada Ltd.	415 West Hunt Club Rd, Nepean	Canada
HOME HARDWARE STORES LIMITED	34 Henry Street W., St. Jacobs, N0B 2N0	Canada
Walmart Canada Corp	1940 Argentia Road, Mississauga, L5N 1P9	Canada

2. **Acceptable Currency: CAD, USD**

3. **Purchase Price Reserve: 5 %**

4. **Factoring Commission**

The initial Factoring Commission under this Agreement is for Receivables denominated in CAD 0.3120 %. The initial Factoring Commission under this Agreement is for Receivables denominated in USD 0.6972 %. Afterwards the PURCHASER determines ten (10) Business Days after the end of each calendar quarter a new Factoring Commission on the basis of the following formula:

$$0.06 \% + \text{Relevant Advance Rate} * (\text{Applicable Rate} / 360) * \text{Average Days to Pay}$$

The Factoring Commission determined on the basis of this formula shall only take effect for Purchased Receivables booked on the Factoring Account after determination of such new Factoring Commission.

The terms highlighted in **bold** in this section (*Factoring Commission*) of Schedule 1 (Terms and Conditions) have the following meaning:

Additional Reserve: Expressed as percentage rate: **(Average Sum Dispute Reserve + Average Sum Counterclaim Reserve) / Average Sum Purchased Receivables.**

Applicable Rate: for Receivables denominated in CAD, CDOR plus 3.25 %; for Receivables denominated in USD, LIBOR plus 3.25 %.

Average Days to Pay: As of any day of determination, the weighted average of the number of days from the date of booking of the relevant Receivables to the Factoring Account to the date of payment of each Receivable that was collected during the calendar quarter most recently ended. In the case of a partial payment on a relevant Receivable such partial payment is taken into account on a pro rata basis for the calculation of **Average Days to Pay.**

Average Sum Counterclaim Reserve: As of any day of determination, the sum of reserves for Counterclaims booked on the Special Blocked Account on the last day of each month in the calendar quarter which ended last, divided by three (3).

Average Sum Dispute Reserve: As of any day of determination, the sum of **Dispute Reserve** on the last day of each month in the calendar quarter which ended last, divided by three (3).

Average Sum Purchased Receivables: As of any day of determination, the sum of the Nominal Amounts of the Purchased Receivables booked on the Factoring Account on the last day of each month in the calendar quarter which ended last, divided by three (3).

Dispute Reserve: Debit to the **Settlement Account** due to a Notification of Dispute.

CDOR: As of any day of determination, the three-month Canadian Dollar Offered Rate (daily rate). The PURCHASER will be allowed, following consultation with ORIGINATOR and using commercially reasonable efforts to accommodate ORIGINATOR's suggestions, to replace such CDOR with a new benchmark which (i) is publicly designated or recommended by the relevant authority or its working group or committee, the Financial Stability Board, or the administrator as the replacement for the CDOR and/or (ii) in the reasonable opinion of the PURCHASER is generally accepted in the international or local market as the appropriate replacement for the CDOR with respect to non-recourse or limited recourse receivables purchase facilities. It being understood that such replacement benchmark could also be a reformed CDOR, for example when the determination method of the CDOR has been altered.

LIBOR: As of any day of determination, the three-month London Interbank Offered Rate (daily rate) for the relevant currency.

The PURCHASER will be allowed, following consultation with ORIGINATOR and using commercially reasonable efforts to accommodate ORIGINATOR's suggestions, to replace such LIBOR with a new benchmark which (i) is publicly designated or recommended by the relevant authority or its working group or committee, the Financial Stability Board, or the administrator as the replacement for the LIBOR and/or (ii) in the reasonable opinion of the PURCHASER is generally accepted in the international or local market as the appropriate replacement for the CD LIBOR OR with respect to non-recourse or limited recourse receivables purchase facilities. It being understood that such replacement benchmark could also be a reformed LIBOR, for example when the determination method of the LIBOR has been altered.

Relevant Advance Rate: 100% minus Purchase Price Reserve minus Additional Reserve.

5. Debtor Limit Fee, Costs of Money Transfer charged by other Financial Institutions:
 - a) **Debtor Limit Fee:** as agreed in Supplement No 1 to this Agreement regarding the credit insurance.
 - b) The ORIGINATOR shall bear all actual, out-of-pocket costs charged or deducted by external financial institutions concerning all Debtor related payments received by PURCHASER directly or on a Pledged Account. In case of Pledged Accounts the ORIGINATOR shall further bear any costs and expenses arising in connection with the establishment of the related control agreement, account management and money transfer.
6. **Maximum Commitment:** **50,000,000 USD** for the entire Customer Group whereby it is understood that such Maximum Commitment is available for mutual and joint utilization by the members of the Customer Group. I.e., each member of the Customer Group can utilize its Receivables Sale Agreement with the PURCHASER to the extent required but subject to the aggregate maximum amount of USD 50,000,000 for all members of the Customer Group. To determine the utilization of the Maximum Commitment by the Customer Group, the PURCHASER

is authorized to convert any utilization in a currency other than USD into USD at the bid rate applicable at such date of determination.

7. Commencement Date: April 21st, 2022

8. Expiration Date: August 31st, 2024

9. Pledged Accounts:

(a) USD:

ABA Routing Number: 021000021
 Account Number: 829807319
 Sort Code: USD
 SWIFT: CHASUS33
 Account Bank: JPMorgan Chase Bank, N.A.

(b) CAD:

Canadian Bank Routing Number: 027000012
 Account Number: 4011771475
 Sort Code: CAD
 SWIFT: CHASCATTCTS
 Account Bank: JPMorgan Chase Bank, N.A.

10. Purchaser Accounts (if any): not applicable.

11. Full-Service- Purchase or Inhouse-Purchase: The Inhouse-Purchase will apply.

12. Disclosed / Undisclosed Procedure: The Undisclosed Procedure shall apply.

13. Note of sale and assignment in the Disclosed Procedure: not applicable.

14. ORIGINATOR's Notice Address:

Solowave Design LP
 c/o KidKraft Inc.
 4630 Olin Road
 Dallas, TX 75244
 United States of America
 Attention: Todd Whitbeck
 Email: Todd.Whitbeck@kidkraft.com

15. Originator Payment Accounts:

(a) USD:

ABA Routing Number: 001610052
 Account Number: 052-449807-071
 Sort Code: USD
 SWIFT: HKBCCATT
 Account Bank: HSBC
 Account Title / Name: Solowave Design LP
 Address: 4630 Olin Road, Dallas, TX 75244

(b) CAD:

ABA Routing Number: 001610052
Account Number: 052-449807-001
Sort Code: CAD
SWIFT: HKBCCATT
Account Bank: HSBC
Account Title / Name: Solowave Design LP
Address: 4630 Olin Road, Dallas, TX 75244

16. Others:
- a) The parties hereto agree that upon the ORIGINATOR's request, a Debtor shall be excluded from the scope of this Agreement in case Purchaser anticipates in its commercially reasonable judgement not being able to purchase a majority of Receivables from the Debtor, subject to the terms governing Eligible Receivables, Debtor Limits, and other terms of the Agreement.
 - b) The parties agree to use good faith efforts to add additional parties identified by ORIGINATOR from time to time as "Debtors" under this Agreement.
 - c) Originator undertakes to ensure that the below mentioned registration is discharged by July 31st, 2022 at the latest:
For Her Majesty in Right of Ontario represented by the Minister of Finance, Ontario PPSA registration against Originator and SDI under reference number 780092568 - 20220201 1418 1031 0056 ("Condition Subsequent")

Accepted, acknowledged and agreed

as of April 21st, 2022

Solowave Design LP, acting by its general partner **Solowave Design Inc.**
as Originator

By:  _____

Name: *Geoffrey L. ...*

Title: *CEO*

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

Accepted, acknowledged and agreed

as of April 21st, 2022

Solowave Design LP, acting by its general partner **Solowave Design Inc.**
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By: _____
Name: *Angar Lugetstedt* *Timo Haller*
Title: *MD* *Proxy*

Schedule 2 (Transfer of Data)

The data received from the ORIGINATOR within the scope of this Agreement is transmitted by the PURCHASER to the necessary extent to its Affiliates for the purpose of internal review and decision on the purchase of Receivables, the collection of Receivables and the determination of a score value of the ORIGINATOR and/or its Debtors. The data may also be passed on to credit insurance companies or re-insurance companies for purposes of coverage of bad debt risks under credit insurance contracts or re-insurance contracts, to banks, financial service providers and other third parties for refinancing purposes, external experts and advisors including legal advisors, tax advisors or auditors for their individual auditing and/or consulting activities as well as to external service providers - if necessary as processors bound by instructions (*Auftragsdatenverarbeiter*) - e.g. for IT services or infrastructure services, customer service, e-mail distribution and other services, or to any other persons expressly agreed with the ORIGINATOR or entitled by law. This data is also used to check the ORIGINATOR's creditworthiness. The results obtained in this way can also be made available to third parties by the PURCHASER or the data recipients. Further information on data protection can be found at www.coface.de/Datenschutz.

Accepted, acknowledged and agreed

as of April 21st, 2022

Solowave Design LP, acting by its general
Partner **Solowave Design Inc.**
as Originator

By: 

Name: *Geoffrey W. Lister*

Title: *CEO*

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

Accepted, acknowledged and agreed

as of April 21st, 2022

Solowave Design LP, acting by its general
Partner **Solowave Design Inc.**
as Originator

By: _____

Name:

Title:

Coface Finanz GmbH
as Purchaser

By: _____ *ma. Gültig*

Name: *Ansgar Wügelshoff* / *Timo Müller*

Title: *MD* / *Proxy*

Schedule 3 (Conditions Precedent)

(a) A duly executed counterpart of this Agreement and its schedules;

(b) A certificate of the secretary or assistant secretary of the ORIGINATOR certifying and (in the case of clauses (i) through (v) below) attaching as exhibits thereto, among other things:

(i) a copy of the limited partnership agreement of the ORIGINATOR and a copy of the certificate incorporation of SDI (certified by the Secretary of State or other similar official of the SDI's jurisdiction of incorporation as of a recent date);

(ii) a copy of the by-laws of SDI;

(iii) a copy of resolutions of the board of directors of SDI, as the general partner of the ORIGINATOR, authorizing the execution, delivery and performance by SDI, for and on behalf of the ORIGINATOR, of this Agreement and all other documents evidencing necessary corporate action (including shareholder consents) and government approvals, if any, and

(iv) the incumbency, authority and signature of each officer of SDI executing this Agreement or any certificates or other documents delivered hereunder or thereunder on behalf of SDI, as general partner of the ORIGINATOR;

(v) A good standing certificate for SDI and the ORIGINATOR issued by the Secretary of State or a similar official of SDI's and the ORIGINATOR'S respective jurisdictions of incorporation;

(c) Copies of PPSA financing statements to be filed on or promptly after the Commencement Date naming SDI and the ORIGINATOR, as debtor/seller, in favor of PURCHASER, as secured party/buyer, or other similar instruments or documents as may be necessary or in the reasonable opinion of PURCHASER desirable under the PPSA of all appropriate jurisdictions or any comparable law to perfect PURCHASER'S ownership and security interests, as applicable, in all Receivables and their Related Assets;

(d) Certified copies of requests for information or copies (Form UCC-1) (or a similar search report certified by parties acceptable to PURCHASER) as of a recent date listing all effective financing statements which name SDI or the ORIGINATOR (under their respective present names and any previous names) as debtor and which are filed in jurisdictions in which the filings were made pursuant to clause (c) above and such other jurisdictions where PURCHASER may reasonably request together with copies of such financing statements (none of which shall cover any Purchased Receivables or Related Assets);

(e) With respect to Purchased Receivables, security interest releases and filed copies of proper financing statements (to be filed in connection with the closing of this Agreement), if any, necessary to terminate all security interests and other rights of any person or entity in the Receivables and their Related Assets; with respect to Receivables that are not Purchased Receivables, an agreement or acknowledgement in respect of the Credit Agreement, in form and substance reasonably acceptable to the PURCHASER, SDI, the ORIGINATOR, and the administrative agent under such Credit Agreement with respect to the handling and processing of funds from Debtors that come into any Pledged Account;

(f) security interest releases and filed copies of proper financing statements, necessary to terminate all security interests and other rights of HSBC in the Receivables and their Related Assets;

(g) Executed supplement No. 1 to this Agreement regarding credit insurance;

(h) Executed Control Agreements relating to each of the Pledged Accounts;

(i) Executed Lien release and acknowledgement agreement;

(j) Confirmation by KidKraft Intermediate Holdings, LLC that the Originator has neither assigned any Receivables to them nor to any third party;

(k) Executed Power of Attorney and specimen Signatures;

(l) Completion of KYC procedure satisfactory to PURCHASER;

(m) Evidence that the EDP interface has been implemented as specified by PURCHASER and Receivable data are provided in a proper way within the EDP interface;

(n) One or more favorable opinions of OSLER, HOSKIN & HARCOURT LLP and Tuan Olona, LLP, special counsel to the ORIGINATOR, collectively covering corporate, no-conflicts, enforceability, PPSA security interest creation, perfection and filing priority

matters and all other matters reasonably requested by PURCHASER, in each case, in form and substance satisfactory to PURCHASER including but not limited to this Agreement, the Control Agreement and the Power of Attorney and Specimen Signature referred to under Schedule III (k); and

(o) A favorable opinion of Tuan Olona, LLP, special counsel to the ORIGINATOR, covering certain bankruptcy and insolvency matters (i.e., "true sale") in form and substance satisfactory to PURCHASER.

Accepted, acknowledged and agreed

as of April 21st, 2022

Solowave Design LP, acting by its general
Partner **Solowave Design Inc.**
as Originator

By:  _____

Name: *GEORGE WALKER*

Title: *CEO*

Coface Finanz GmbH
as Purchaser

By: _____

Name:

Title:

Accepted, acknowledged and agreed

as of April 21st, 2022

Solowave Design LP, acting by its general
Partner **Solowave Design Inc.**
as Originator

By:

Name:

Title:

Coface Finanz GmbH
as Purchaser

By:

Name: Ansgar Engelstadt Kimmo Haller

Title: MO Proxy

This is Exhibit "F" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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., <i>et al.</i> ,	§	(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**

William L. Wallander (Texas Bar No. 20780750)
Matthew D. Struble (Texas Bar No. 24102544)
Kiran Vakamudi (Texas Bar No. 24106540)
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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

This is Exhibit "G" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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.

Michelle V. Larson

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-mvl11
	§	
KIDKRAFT, INC.	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 75-2293303	§	

In re:	§	Case No. 24-80046-mvl11
	§	
KIDKRAFT EUROPE, LLC	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 26-4153174	§	

In re:	§	Case No. 24-80047-mvl11
	§	
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**

William L. Wallander (Texas Bar No. 20780750)
Matthew D. Struble (Texas Bar No. 24102544)
Kiran Vakamudi (Texas Bar No. 24106540)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

This is Exhibit "H" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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**

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**

This is Exhibit "I" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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., <i>et al.</i> ,	§	(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

William L. Wallander (Texas Bar No. 20780750)
Matthew D. Struble (Texas Bar No. 24102544)
Kiran Vakamudi (Texas Bar No. 24106540)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

This is Exhibit "J" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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**

This is Exhibit "K" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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**

This is Exhibit "L" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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**

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

TAB 1

This is Exhibit "M" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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

This is Exhibit "N" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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**

This is Exhibit "O" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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., <i>et al.</i> ,	§	(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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Matthew D. Struble (Texas Bar No. 24102544)
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**PROPOSED ATTORNEYS FOR
THE DEBTORS AND DEBTORS IN POSSESSION**

This is Exhibit "P" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L



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:**VINSON & ELKINS LLP**

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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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	beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings.
USE OF PROCEEDS:	<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>
APPROVED BUDGET; APPROVED CASH FLOW PROJECTION; AND VARIANCE REPORTS:	<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>

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).

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 (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.

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>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>
DIP COLLATERAL:	<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>
DIP FEES:	<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>
INTEREST RATE:	<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>
DEFAULT RATE:	<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>
MATURITY DATE:	<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>

- (v) Debtors shall be in compliance with and satisfied the applicable Chapter 11 Milestones;
- (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;
- (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);
- (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;
- (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;
- (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;
- (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;
- (xii) all representations and warranties of the Debtors hereunder shall be true and correct in all material respects;

(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;

(xiv) no Material Adverse Change shall have occurred;

(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;

(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

(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.

“Material Adverse Change” means a material adverse effect on and/or material adverse developments arising after the

	<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>

	(vi) consummate any amendment, restatement, supplement or other modification to or waiver of any of its organization documents.
EVENTS OF DEFAULT:	<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
<u>Operating Cash Flow:</u>										
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	-	-	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
<u>Restructuring Fees:</u>										
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
<u>Other Obligations</u>										
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)
<u>Cash Requirement</u>										
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

This is Exhibit "Q" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L

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

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

In re: § **Case No. 24-80045-11**
§
KIDKRAFT, INC., et al., § **(Chapter 11)**
§
§ **(Joint Administration Requested)**
Debtors.¹ § **(Emergency Hearing Requested)**

**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 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.

EMERGENCY RELIEF HAS BEEN REQUESTED. RELIEF IS REQUESTED NOT LATER THAN 9:30 A.M. (CENTRAL TIME) ON MAY 13, 2024.

IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU MUST APPEAR AT THE HEARING IF ONE IS SET, OR FILE A WRITTEN RESPONSE PRIOR TO THE DATE THAT RELIEF IS REQUESTED IN THE PRECEDING PARAGRAPH. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

A HEARING WILL BE CONDUCTED ON THIS MATTER ON MAY 13, 2024 AT 9:30 A.M. (CENTRAL TIME) IN COURTROOM #2, FLOOR 14, UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS, 1100 COMMERCE STREET, DALLAS, TX 75242.

PARTICIPATION AT THE HEARING WILL ONLY BE PERMITTED BY AN AUDIO AND VIDEO CONNECTION.

AUDIO COMMUNICATION WILL BE BY USE OF THE COURT'S DIAL-IN FACILITY. YOU MAY ACCESS THE FACILITY AT 1-650-479-3207. VIDEO COMMUNICATION WILL BE BY USE OF THE CISCO WEBEX PLATFORM. CONNECT VIA THE CISCO WEBEX APPLICATION OR CLICK THE LINK ON JUDGE LARSON'S HOME PAGE. THE MEETING CODE IS 160 135 6015. CLICK THE SETTINGS ICON IN THE UPPER RIGHT CORNER AND ENTER YOUR NAME UNDER THE PERSONAL INFORMATION SETTING.

HEARING APPEARANCES MUST BE MADE ELECTRONICALLY IN ADVANCE OF ELECTRONIC HEARINGS. TO MAKE YOUR APPEARANCE, CLICK THE "ELECTRONIC APPEARANCE" LINK ON JUDGE LARSON'S HOME PAGE. SELECT THE CASE NAME, COMPLETE THE REQUIRED FIELDS AND CLICK "SUBMIT" TO COMPLETE YOUR APPEARANCE.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**"), file this *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 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 "**Motion**"). The facts and circumstances supporting the relief

requested in this Motion are set forth in the *Declaration of Ajay Bijoor, Managing Director of Robert W. Baird & Co., in Support of the Debtors' Motion to Obtain Postpetition Financing* (the “**Bijoor Declaration**”), the *Declaration of Carl Moore, Managing Director of SierraConstellation Partners, LLP, in Support of the Debtors' Motion to Obtain Postpetition Financing* (the “**Moore Declaration**,” and together with the Bijoor Declaration, the “**Financing Declarations**”), and the *Declaration of Geoffrey Walker in Support of Chapter 11 Petitions and First Day Pleadings* (the “**First Day Declaration**”), each filed contemporaneously herewith.² In support of this Motion, the Debtors state as follows:

SUMMARY OF TERMS OF DIP FACILITY AND USE OF CASH COLLATERAL

1. In accordance with Bankruptcy Rules 4001(b)–(d) and Procedures for Complex Cases in the Northern District of Texas Section D, the below chart summarizes the material provisions of the proposed Interim Order (as defined below) and the DIP Term Sheet, a copy of which is attached as Exhibit A of the Interim Order (the “**DIP Term Sheet**”):³

Bankruptcy Rule	Summary of Material Term
Borrower <i>FED. R. BANKR. P. 4001(c)(1)(B)</i>	KidKraft, Inc. <i>See DIP Term Sheet, Borrower.</i>
Guarantors <i>FED. R. BANKR. P. 4001(c)(1)(B)</i>	The Debtors <i>See DIP Term Sheet, Schedule I.</i>
DIP Lender <i>FED. R. BANKR. P. 4001(c)(1)(B)</i>	1903 Partners, LLC <i>See DIP Term Sheet, DIP Lender.</i>
DIP Agent <i>FED. R. BANKR. P. 4001(c)(1)(B)</i>	GB Funding, LLC <i>See DIP Term Sheet, DIP Agent.</i>
Maturity Date; Duration for Use of DIP Collateral	The Maturity Date shall be the earliest of (i) 60 days after the Petition Date, (ii) 30 days following the entry of the Interim Order if the Bankruptcy Court has not entered the Final Order (as defined below); (iii) the date the Debtors' receive notice of the acceleration of

² Capitalized terms used but not otherwise defined in this Motion shall have the meanings set forth in the First Day Declaration or the DIP Term Sheet, as applicable.

³ The summaries contained in this Motion are qualified in their entirety by the provisions of the documents referenced. To the extent anything in this Motion is inconsistent with such documents, the terms of the applicable documents shall control. Capitalized terms used in this summary chart but not otherwise defined have the meanings ascribed to them in the DIP Term Sheet or the Interim Order, as applicable.

<p><i>FED. R. BANKR. P. 4001(b)(1)(B)(iii), 4001(c)(1)(B)</i></p>	<p>any of the DIP Loans and the termination of the commitments to make the DIP Loans resulting from Event of Default; (iv) the effective date of the Plan; (v) the date a sale pursuant to section 363 of the Bankruptcy Code is consummated (exclusive of a Sale Toggle); and (vi) the dismissal or conversion of any of the Chapter 11 Cases or the CCAA Recognition Proceedings (or a motion by the Debtors for dismissal of either).</p> <p><i>See DIP Term Sheet, Maturity Date.</i></p>
<p>DIP Commitment <i>FED. R. BANKR. P. 4001(c)(1)(B)</i></p>	<p>A superpriority senior-secured priming multi-draw term loan facility (i) not to exceed at any time outstanding aggregate commitments of \$10.5 million, consisting of a \$4.0 million DIP Commitment after entry of the Interim Order and an incremental \$6.5 million DIP Commitment after entry of the Final Order plus (ii) the Roll-Up Amount.</p> <p><i>See Interim Order, Section 1.2.</i></p>
<p>Roll-Up <i>Complex Case Procedures (D)(10)(c)</i></p>	<p>Roll-up of the full amount of the Rescue Financing (as defined below) (exclusive of interest and fees), \$23.3 million. The roll up shall be approved upon entry of the Interim Order and deemed to have been advanced on the date thereof.</p> <p><i>See Interim Order, Section 1.2.</i></p>
<p>Conditions to Borrowing <i>FED. R. BANKR. P. 4001(c)(1)(B)</i></p>	<p>Usual and customary for financings of this type, including, among other things:</p> <ul style="list-style-type: none"> • no Event of Default shall have occurred; • the applicable Chapter 11 Milestones shall have been satisfied; • all reasonable, documented fees and out-of-pocket expenses of the DIP Secured Parties relating to the DIP Facility have been paid; • Debtors have insurance with respect to the DIP Collateral; • no Material Adverse Change shall have occurred; • the non-Debtor guarantors under the Prepetition Loan Documents execute a reaffirmation and ratification agreement; and • entry of the Interim and Final Orders. <p><i>See DIP Term Sheet, Conditions Precedent to Each Interim DIP Loan & Conditions Precedent to Each Final DIP Loan.</i></p>
<p>Interest Rate <i>FED. R. BANKR. P. 4001(c)(1)(B)</i></p>	<p>Adjusted Term SOFR for an Interest Period (as defined in the Prepetition Credit Agreement) of one month plus 8.50%.</p> <p><i>See DIP Term Sheet, Interest Rate; Interim Order Section 1.3(a)</i></p>
<p>Use of Cash Collateral <i>FED. R. BANKR. P. 4001(b)(1)(B)(iii); Complex Case Procedures (D)(12)</i></p>	<p>The Debtors are authorized to use Cash Collateral, subject to the Interim Order, the DIP Term Sheet, the DIP Documents, in accordance with the Approved Budget, a copy of the latest version of which is attached to the DIP Term Sheet as Exhibit A, and the liens and security interests granted to Prepetition Agent and Prepetition Lender (collectively, the “Prepetition Secured Parties”).</p> <p><i>See Interim Order, Section 2.6(a).</i></p>
<p>Adequate Protection for Use of Cash Collateral <i>FED. R. BANKR. P. 4001(b)(1)(B)(iv) 4001(c)(1)(B)(ii)</i></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 (i) receive replacement liens pursuant to sections 361, 363(e), and 364(d)(1) of the Bankruptcy Code, (ii) a superpriority administrative expense claim, and (iii) payment of all reasonable, documented out-of-pocket costs and expenses of the Prepetition Secured Parties, in each case subject to the Carve Out.</p> <p><i>See Interim Order, Section 2.6.</i></p>
<p>Liens and Priority</p>	<p>The DIP Liens on the DIP Collateral shall, in all cases, subject and subordinate to the Carve-Out, have the priority set forth as follows:</p>

<p><i>FED. R. BANKR. P. 4001(c)(1)(B); Complex Case Procedures (D)(10)(g)</i></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 with priority over any and all administrative expenses;</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 Collateral is not subject to valid, perfected, and non-avoidable liens as of the Petition Date (subject to the Permitted Liens); and</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>See Interim Order, Sections 2.1 and 2.2.</p>
<p>Prepayments <i>FED. R. BANKR. P. 4001(c)(1)(B)</i></p>	<p><u>Optional Prepayments:</u> 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. Any amounts prepaid may not be reborrowed.</p> <p><u>Mandatory Prepayments:</u> 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, upon receipt of proceeds of a sale of substantially all of the Debtors’ assets, sale of any assets outside of the ordinary course of business in excess of \$10,000, and any extraordinary receipts.</p> <p>See DIP Term Sheet, Optional Prepayments & Mandatory Prepayments.</p>
<p>Budget <i>FED. R. BANKR. P. 4001(c)(1)(B)</i></p>	<p>The “Approved Budget” shall consist of a weekly budget for the nine-week period commencing on the Petition Date and include, among other things, all projected cash receipts, sales, and cash disbursements.</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-week anniversary thereafter (or such other time as the Debtors may elect with the consent of the DIP Lender and the Purchaser), the weekly budget shall be updated.</p> <p>See DIP Term Sheet, Approved Budget; Approved Cash Flow Projection; and Variance Reports; Interim Order Section 1.8(a).</p>
<p>Variance Covenant <i>FED. R. BANKR. P. 4001(c)(1)(B)</i></p>	<p>“Permitted Variances” include: (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), (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, in each case calculated weekly on a rolling four week basis commencing as of the Petition Date, with the first such testing to begin three weeks from the Petition Date, except that the Professional Fee Variance shall be calculated weekly and not on a rolling four week basis.</p> <p>See DIP Term Sheet, Approved Budget; Approved Cash Flow Projection; and Variance Reports; Interim Order Section 1.8(b).</p>
<p>Events of Default <i>FED. R. BANKR. P. 4001(c)(1)(B); Complex Case Procedures (D)(10)(d)</i></p>	<p>Events of Default include usual and customary events of default for financings of this type, including, but not limited to (i) after the first applicable testing date, the occurrence of any deviation from the Approved Budget that is greater than the Permitted Variances; (ii) failure of any of the Chapter 11 Milestones to be satisfied; (ii) 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; (iii) the actual amount of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Other Priority Claims (each as defined in the Plan) exceeds or is expected to exceed the Administrative Expense Claim and Priority Tax Claim Backstop Amount; and (iv) failure to pay principal, interest or other DIP Obligations in full in cash when due.</p>

	See DIP Term Sheet, Events of Default.
Indemnification <i>FED. R. BANKR. P. 4001(c)(1)(B)(ix)</i>	The DIP Term Sheet contains indemnification provisions ordinary and customary for financings of this type. See DIP Term Sheet, Indemnity.
Carve-Out <i>FED. R. BANKR. P. 4001(c)(1)(B)(i)</i>	The interim order provides a “Carve-Out” of from liens, collateral, cash collateral, adequate protection claims, superpriority claims, and other claims for the payment of certain statutory fees, allowed professional fees of the Debtors, and allowed professional fees of an official committee of unsecured creditors, including a Post-Carve Out Trigger Notice Cap, subject to the terms of the Interim Order. The Funded Reserve Account shall be funded on the Friday of the first full calendar week following the Petition Date and on a weekly basis thereafter and be held by the Debtors in trust solely for the benefit of the Debtor Professionals subject to the terms of the Interim Order and the Approved Budget. See DIP Term Sheet, Carve-Out; Interim Order, Section 2.3.
Fees, Expenses, and Additional Payments <i>FED. R. BANKR. P. 4001(c)(1)(B); Complex Case Procedures (D)(14)(c)</i>	The Debtors shall pay the (A) DIP Lender (i) an origination fee of 2.00% of the DIP Commitment and (ii) an exit fee of 2.00% of the DIP Commitment that will be fully earned and non-refundable upon consummation of the Plan and (B) the DIP Agent, a weekly administrative fee of \$7,500. The Debtors shall also pay all reasonable, documented out-of-pocket costs and expenses of the DIP Secured Parties relating to the DIP Facility, the Debtors’ Chapter 11 Cases. See DIP Term Sheet, DIP Fees & DIP Secured Parties’ Expenses.
Section 506(c) Waiver <i>FED. R. BANKR. P. 4001(c)(1)(B)(x); Complex Case Procedures (D)(13)(b)</i>	Effective upon entry of the Final Order, the Debtors shall waive, and shall not assert in the Chapter 11 Cases or any successor cases, any surcharge claim under sections 105(a) and/or 506(c) of the Bankruptcy Code or otherwise for any costs and expenses incurred in connection with the preservation, protection or enhancement of, or realization by the Prepetition Lender or the DIP Lender, upon the Prepetition Collateral or DIP Collateral, respectively. See DIP Term Sheet, Events of Default; Interim Order, Section 4.3.
Section 552(b) Waiver <i>FED. R. BANKR. P. 4001(c)(1)(B); Complex Case Procedures (D)(13)(c)</i>	Effective upon entry of the Final Order, the DIP Secured Parties and the Prepetition Secured Parties shall be entitled to the rights and benefits of section 552(b) of the Bankruptcy Code, and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to any of the Prepetition Secured Parties, the DIP Secured Parties, the DIP Obligations, or the Prepetition Obligations. See DIP Term Sheet, Events of Default; Interim Order, Section 5.9.
Marshaling <i>FED. R. BANKR. P. 4001(c)(1)(B); Complex Case Procedures (D)(13)(d)</i>	Effective upon entry of the Final Order, the DIP Lender shall not be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral and all proceeds shall be received and applied pursuant to the Final Order and the DIP Loan Documents notwithstanding any other agreement or provision to the contrary. See DIP Term Sheet, Events of Default; Interim Order, Section 5.9.
Liens on Avoidance Actions/Proceeds <i>FED. R. BANKR. P. 4001(c)(1)(B)(iii); Complex Case Procedures (D)(13)(a)</i>	Subject to entry of Final Order, the DIP Lender shall have a lien on the proceeds of avoidance actions under chapter 5 of the Bankruptcy Code. See Interim Order, Section 2.1(a).

<p>Determination Regarding Prepetition Claims <i>FED. R. BANKR. P. 4001(c)(1)(B)(iii); Complex Case Procedures (D)(10)(e)</i></p>	<p>The Interim Order contains stipulations of fact by the Debtors, including related to the validity and enforceability of the DIP Secured Parties' prepetition secured obligations.</p> <p>The stipulation are valid against third parties, unless (a) the third party files a complaint or 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) 60 calendar days from the date of appointment of the Committee by the U.S. Trustee, and (iii) 75 calendar days from the Petition Date for all parties other than the Committee (if any) (the "Challenge Period") challenging the Prepetition Obligations or Prepetition Liens and (b) such Challenge sets for the 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.</p> <p>See Interim Order, Section F(a)(ii).</p>
<p>Effect of Debtors' Stipulations on Third Parties <i>FED. R. BANKR. P. 4001(c)(1)(B)(iii), (viii)</i></p>	<p>The Debtors' Stipulations are binding on each other party in interest unless (a) such party in interest with standing and requisite authority has timely commenced an adversary proceeding during the Challenge Period regarding the Prepetition Obligations or Prepetition Liens and (b) such Challenge sets for the with specificity the basis for such challenge.</p> <p>See Interim Order, Section 4.1.</p>
<p>Milestones <i>FED. R. BANKR. P. 4001(c)(1)(B)(vi); Complex Case Procedures (D)(10)(a)</i></p>	<p>Milestones relating to the DIP include, in relevant part,</p> <ul style="list-style-type: none"> • No later than one day after the Petition Date, the Debtors shall have filed the Plan and Disclosure Statement. • No later than two Business Days after the Petition Date, the Debtors shall have obtained entry of the Interim Order by the Bankruptcy Court, and no later than five Business Days thereafter, the Debtors shall have obtained entry by the CCAA Court of the Interim DIP Recognition Order. • No later than 30 days after the Petition Date, the Debtors shall have obtained entry of the Final Order by the Bankruptcy Court, and no later than five Business Days thereafter, the Debtors shall have obtained entry by the CCAA Court of the Final DIP Recognition Order. • No later than 45 days after the Petition Date, the Bankruptcy Court shall have entered the Confirmation Order and the final Sale Order, and no later than five Business Days thereafter, the CCAA Court shall have entered an order in the CCAA Recognition Proceedings recognizing and giving effect in Canada to the Confirmation Order and the Sale Order. • No later than five Business Days after the later of entry of the Sale Order and the CCAA Sale Order, all conditions to Closing under the Purchase Agreement shall have been satisfied or waived and the Sale Transaction shall have been consummated. <p>See DIP Term Sheet, Milestones.</p>
<p>Waiver or Modification of the Automatic Stay <i>FED. R. BANKR. P. 4001(c)(1)(B)(iv); Complex Case Procedures (D)(10)(d)</i></p>	<p>The Interim Order provides that the automatic stay under section 362 of the Bankruptcy Code is modified to:</p> <p>(A) implement the DIP financing arrangements, (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.</p> <p>Upon the occurrence of an Event of Default:</p> <p>(A) declare a termination, reduction, or restriction on the ability of the Debtors to use Cash Collateral, (B) take any other action and exercise all other rights and remedies provided by the Interim Order, the DIP Documents, or applicable law other than those rights and</p>

	remedies subject to the expiration of the Remedies Notice Period, and (C) charge interest at the default rate under the DIP Documents. <i>See</i> Interim Order, Section 3.4.
Releases, Waivers, or Limitation on any Claim or Cause of Action <i>FED. R. BANKR. P. 4001(c)(1)(B)(viii); Complex Case Procedures (D)(10)(f)</i>	Each Debtor, on behalf of itself and its successors and assigns and other “ Releasors ” (as defined in the Interim Order) release each of the Prepetition Agent and Prepetition Lender other “Prepetition Releasees” (as defined in the Interim Order) and the DIP Lender, DIP Agent, and other “DIP Releasees” (as defined in the Interim Order) from all claims and causes of action against any Prepetition Releasees or DIP Releasees as of the date of the Interim Order, in respect of 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, as applicable. <i>See</i> Interim Order Sections F(a)(vii) & 4.5.

2. After exploring their options with the assistance of their independent investment banker, the Debtors have concluded that the DIP Facility is the best and only viable postpetition financing alternative available to them. The DIP Agent and DIP Lender (collectively, the “**DIP Secured Parties**”) would not have agreed to provide such financing without the terms and provisions summarized above and set forth below. The Debtors and the DIP Secured Parties have endeavored to structure the DIP Facility and its approval in accordance with the applicable provisions of the Bankruptcy Rules and the Procedures for Complex Cases in the Northern District of Texas. It is the Debtors’ firm conviction that without the DIP Facility, the Debtors’ businesses will not be able to operate, resulting in the loss of value, jobs, and the ability to consummate the Sale Transaction for the benefit of their estates and stakeholders. In light of the foregoing, and as further set forth in the Motion and supporting declarations, the Debtors respectfully submit that the terms of the DIP Facility are appropriate under the facts and circumstances of these Chapter 11 Cases.

PRELIMINARY STATEMENT

3. As discussed in greater detail in the Financing Declarations and the First Day Declaration and the other pleadings, these chapter 11 cases (the “**Chapter 11 Cases**”) will effectuate the sale of substantially all of the Debtors’ assets to Backyard Products, LLC

(“*Backyard*”). Prior to the Petition Date, the Debtors and their advisors engaged in multiple marketing processes which resulted in the Sale Transaction with Backyard. After these multiple market tests, the Debtors believe that the proposed Sale Transaction with Backyard provides the best—and only currently available—opportunity to maximize the value of the Debtors’ estates.

4. On April 25, 2024, in order to implement the Sale Transaction while simultaneously maintaining the value of their estates, the Debtors entered into a Restructuring Support Agreement (the “*RSA*”) with certain of their key stakeholders. Those stakeholders included Backyard and the Prepetition Lender who has also agreed to provide the Debtors with the proposed postpetition financing described in this Motion. The RSA sets forth the commitments of the parties to implement the proposed Sale Transaction through the Plan, including DIP Facility (as defined below) in accordance with the DIP Term Sheet.

5. The DIP Facility is essential for the Debtors to consummate the Sale Transaction. As described in the Moore Declaration, the Debtors will utilize the DIP Facility to pay their employees, produce inventory, and make other ordinary course payments in order to preserve their value for the Sale Transaction with Backyard. Accordingly, the Debtors respectfully request the Court approve the proposed DIP Facility, which will provide the Debtors with a total of \$10.5 in new money financing, approximately \$4.0 million of which the Debtors are requesting on an interim basis. As described further in this Motion, in exchange for this essential liquidity, the Debtors have agreed to certain reasonable protections for the DIP Secured Parties, including liens on collateral, payment of interest and fees on amounts borrowed, and a limited “roll up” of approximately \$23.3 million of prepetition financing (the “*Rescue Financing*”) which provided the Debtors with a liquidity runway to file these Chapter 11 Cases and maximize the value of their estates.

6. As set forth in greater detail below and in the Financing Declarations, the DIP Facility is the product of arm's-length negotiations and is in the best interests of the Debtors and their Estates. The terms of the DIP Facility comply with section 364 of the Bankruptcy Code, and entry into the DIP Facility and performance of all of the Debtors' obligations is reasonable and appropriate exercise of the Debtors' business judgment under the circumstances. Accordingly, the Debtors respectfully request that the Court authorize the Debtors' entry into the DIP Facility, and grant other relief as requested in this Motion.

JURISDICTION AND VENUE

7. The United States Bankruptcy Court for the Northern District of Texas (the "***Court***") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

9. The statutory bases for the relief requested herein are sections 105, 361, 362, 363, 364, 503, and 507 of title 11 of the United States Code (the "***Bankruptcy Code***"), Bankruptcy Rules 2002, 4001, 6003, and 6004, rules 9007-1 and 9013-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the "***N.D. Tex. L.B.R.***"), and the *General Order Regarding Procedures for Complex Chapter 11 Cases* (the "***Complex Case Procedures***").

EMERGENCY CONSIDERATION

10. In accordance with the N.D. Tex. L.B.R. and Complex Case Procedures, the Debtors request emergency consideration of this Motion. The liquidity provided under the DIP Facility is necessary for the Debtors' transition into chapter 11, which is critical to the viability of their operations and the success of these Chapter 11 Cases. As discussed in detail below and in the First Day Declaration, any delay in granting the relief requested could hinder the ultimate success of the Debtors' chapter 11 cases and cause immediate and irreparable harm. As such, the Debtors believe that emergency consideration is necessary and request that this Motion be heard at the Debtors' first day hearings.

BACKGROUND

11. KidKraft, Inc. (together with its Debtor and non-Debtor affiliates, the "*Company*") is a Dallas-based privately held company that is a leader in branded, sustainable, wood-based active and imaginative play products, with operations in the U.S., Canada, Europe, and Asia. The Company works with global supply partners to source materials and build its products, which include dollhouses, play sets, playhouses, swing sets, and more. It distributes its products through partnerships with major global retailers and through direct-to-customer sales, with more than 3,000 points of distribution in over 90 countries. The Company, like many in its industry, has experienced significant headwinds in recent years that have strained liquidity and operations. Unable to satisfy its funded debt obligations and certain other obligations to vendors and other parties, the Company and its advisors undertook extensive marketing and sale processes that have culminated in these Chapter 11 Cases, through which the Company aims to implement a sale to a strategic buyer pursuant to a prepackaged chapter 11 plan (or, in the alternative, pursuant to

consummation of a stand-alone sale pursuant to section 363 of the Bankruptcy Code) to, among other things, preserve jobs and continue the KidKraft brand as a going concern.

12. On the date hereof (the “*Petition Date*”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no request for the appointment of a trustee or examiner has been made and no official committee of unsecured creditors (a “*Committee*”) has been appointed in these Chapter 11 Cases.

13. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the First Day Declaration filed contemporaneously herewith and incorporated herein by reference.

DEBTORS’ PREPETITION CAPITAL STRUCTURE

A. Prepetition Credit Agreement.

14. As described in the First Day Declaration, the Debtors’ funded debt arises from the Prepetition Credit Agreement, which was amended (the “*Fifth Amendment*”) in connection with the Debt Sale to the Prepetition Secured Parties. The Fifth Amendment increased the available priority revolving commitments under the Prepetition Credit Agreement 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, giving the Company crucial liquidity and runway to pursue the marketing process that ultimately yielded the proposed transaction with Backyard. The Prepetition Credit Agreement was further amended on May 9, 2024, to increase the total available priority revolving commitments to \$31.5 million.

15. As of the Petition Date, the Debtors' aggregate principal outstanding funded debt obligations under the Prepetition Credit Agreement totaled approximately \$144.9 million, comprised of (i) \$81.7 million under the Prepetition First Lien Term Facility and (ii) \$63.2 million under the Prepetition First Lien Revolving Facility. In addition, the Debtors owe accrued and unpaid interest under both the Prepetition First Lien Term Facility and the Prepetition First Lien Revolving Facility. The remainder of the Debtors' prepetition capital structure is summarized in the table below.

<u>Facility</u>	<u>Maturity</u>	<u>Total Approx. Amount Outstanding</u>
Revolving Credit Facility	June 2024	\$63.2 million ⁴
Term Loan Credit Facility	June 2024	\$81.7 million
<u>Total Secured Debt</u>		<u>\$144.9 million</u>
Subordinated Sponsor Debt	January 2025	\$5.0 million
<u>Total Effective Debt</u>		<u>\$149.9 million</u>

DEBTORS' LIQUIDITY NEEDS AND THE PROPOSED DIP FACILITY

16. As detailed in the Moore Declaration, the Debtors require access to liquidity to ensure that they are able to continue their normal business operations during these Chapter 11 Cases and to preserve the value of their Estates. All of the Debtors' cash on hand as of the Petition Date and any proceeds of the Prepetition Collateral are subject to the liens of the Prepetition Lender. Pursuant to the RSA, the Prepetition Lender has agreed to provide the DIP Facility on the terms set forth in the Interim Order and in accordance with the Approved Budget.

17. The proceeds from the proposed DIP Facility will be used for, among other things, making payments integral to the Debtors' business operations, paying administrative expenses associated with these Chapter 11 Cases, and satisfying working capital needs in the ordinary course

⁴ The Revolving Credit Facility includes approximately \$31.5 million of priority revolving commitments.

of business. Moreover, the liquidity to be provided under the DIP Facility, combined with access to existing Cash Collateral, will enable the Debtors to (i) fund their operations during the course of these Chapter 11 Cases including chapter 11 administrative costs, (ii) ensure that value is preserved during the course of the Debtors' Chapter 11 Cases, and (iii) consummate the Sale Transaction and confirm the Plan to maximize value for the Debtors' Estates.

18. Given that substantially all of the Debtors' unrestricted cash is Cash Collateral, the 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. Authority to use Cash Collateral and enter into the DIP Facility will provide the Debtors with necessary funds to operate their business and continue paying their postpetition obligations as they come due during these Chapter 11 Cases.

**THE ROLL UP OF A PORTION
OF THE RESCUE FINANCING IS REASONABLE.**

19. The DIP Facility seeks to "roll up" approximately \$23.3 million of the Rescue Financing upon entry of the Interim Order. The proposed Roll-Up Amount is limited to the new capital that the Prepetition Secured Parties provided the Debtors after the Debt Sale closed on January 31, 2024. Importantly, this liquidity provided a runway for the Debtors to commence the 2024 Sale Process, which in turn led to Backyard's offer and the proposed Sale Transaction and has allowed the Debtors to maintain their operations and preserve the value of their estates leading up to these Chapter 11 Cases. The roll up is a material component of the structure of the DIP Facility and was required by the DIP Lenders as a condition to their commitment to provide postpetition financing and their consent to the Debtors' use of Cash Collateral. Additionally, the proposed roll up is reasonable in light of the ratio of new money provided by the DIP Lender to the Roll-Up Amount. The Debtors believe that given the limited size of the Roll-Up Amount in

comparison to the substantial benefits the Debtors will receive from the liquidity under the DIP Facility and the substantial benefits provided by the Rescue Financing, agreeing to the roll up in the Interim Order is a reasonable exercise of their business judgment.

THE DIP FACILITY WAS NEGOTIATED IN GOOD FAITH AND AT ARMS' LENGTH

20. As further described in the Bijoor Declaration, the terms of the DIP Facility are the product of extensive good faith, arm's-length negotiations between the Debtors and the DIP Secured Parties, each of which was represented by qualified counsel. Beginning in March 2024, the Debtors, with the assistance of the Advisors, actively negotiated the terms and provisions of the DIP Facility. The result of these negotiations was memorialized in the RSA and the DIP Term Sheet. Based on the DIP financing marketing process conducted by the Debtors and Baird and the extensive arm's-length negotiations between the Debtors and the DIP Lender, the DIP Facility represents the best financing option available to the Debtors. The terms of the DIP Facility are reasonable under the circumstances and are consistent with market terms for such financings provided to companies in circumstances similar to the Debtors.

RELIEF REQUESTED

21. By this Motion, the Debtors seek entry of an interim order substantially in the form attached as **Exhibit A** (the "***Interim Order***"), and subsequently entry of a final order which shall be substantially in the same form as the Interim Order and modified to become a final order as contemplated in the Interim Order (the "***Final Order***") and scheduling a final hearing (the "***Final Hearing***") to consider entry of the Final Order.

BASIS FOR RELIEF

A. Obtaining the DIP Facility, Including the Roll-Up Amount, is a Sound Exercise of Business Judgment.

22. After thorough marketing of their assets by independent financial advisors, the Debtors have concluded that the Sale Transaction is the best opportunity for the Debtors to maximize the value of their estates. Further, after market testing and seeking financing alternatives via their independent financial advisors, the DIP Facility is the only financing option available to the Debtors under the circumstances of these Chapter 11 Cases. The Court should authorize the Debtors, as an exercise of their sound business judgment, to (i) enter into the DIP Documents, (ii) obtain access to the DIP Facility, and (iii) use advances of credit under the DIP Facility and Cash Collateral in accordance with the DIP Orders and the Approved Budget.

23. If an agreement to obtain secured credit complies with the provisions of, and policies underlying, the Bankruptcy Code, courts give debtors considerable deference in acting in accordance with their sound business judgment in obtaining such credit. *See, e.g., In re Estrada*, 2016 WL 745536, at *3 (Bankr. S.D. Tex. Feb. 24, 2016) (“In determining whether to approve a motion to obtain credit, courts generally permit debtors in possession to exercise their basic business judgment consistent with their fiduciary duties.”); *In re Republic Airways Holdings Inc.*, No. 16-10429 (SHL), 2016 WL 2616717, at *11 (Bankr. S.D.N.Y. May 4, 2016) (“In determining whether to authorize post-petition financing, bankruptcy courts will generally defer to the debtor’s business judgment.”); *In re Los Angeles Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) (“Debtors correctly posit that courts will almost always defer to the business judgment of a debtor in the selection of a lender.”); *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (“[C]ases consistently reflect that the court’s discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing

agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.”).

24. Bankruptcy courts generally will not second guess a debtor’s business decisions when those decisions involve a minimum level of care in arriving at the decision on an informed basis, in good faith, and in the honest belief that the action was taken in the best interests of the debtor. *See In re Los Angeles Dodgers LLC*, 457 B.R. at 313. To determine whether the business judgment test is met, “the court ‘is required to examine whether a reasonable business person would make a similar decision under similar circumstances.’” *In re Dura Auto. Sys. Inc.*, No. 06-11202 (KJC), 2007 WL 7728109, at *97 (Bankr. D. Del. Aug. 15, 2007) (citations omitted); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (noting that courts require only that the debtors “show that a sound business purpose justifies such actions”) (citations omitted).

25. Under the circumstances, the Debtors’ decision to enter into the DIP Facility is a sound exercise of their business judgment following a careful evaluation of the alternatives. **First**, without access to the DIP Facility, the Debtors will be unable to pay ongoing operating expenses necessary to sustain their operations, which in turn would jeopardize the Sale Transaction. **Second**, the Debtors negotiated the DIP Term Sheet and the other DIP Documents with the DIP Secured Parties in good faith, at arm’s length, and with the assistance of the Advisors, and the Debtors submit that the terms of the DIP Facility represent the most favorable terms on which such financing can be obtained. **Third**, the Debtors submit that the terms of the DIP Facility are reflective of market terms for financings of this type. Accordingly, the Court should authorize the Debtors’ entry into the DIP Documents as a reasonable exercise of the Debtors’ business judgment.

B. The Court Should Authorize the Liens and Superpriority Claims Under Sections 364(c) and 364(d) of the Bankruptcy Code.

26. The Debtors propose to obtain financing under the DIP Facility by providing the DIP Secured Parties with security interests and liens as set forth in the DIP Documents pursuant to sections 364(c) and 364(d) of the Bankruptcy Code. Specifically, the Debtors are requesting providing the DIP Secured Parties with (i) first priority liens on any unencumbered assets pursuant to section 364(c) of the Bankruptcy Code and (ii) first priority, senior priming liens (“*Priming Liens*”) on all encumbered assets with priority over all other claims (subject and subordinate in each case only to the Carve-Out and Permitted Liens).

(a) The Court Should Authorize the Granting of Superpriority Administrative Claims and Liens on Unencumbered Property.

27. The Debtors meet the requirements for relief under section 364(c) of the Bankruptcy Code, which provides:

If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt:

- (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
- (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
- (3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

28. To satisfy the requirements of section 364(c) of the Bankruptcy Code, courts consider whether (i) the debtor made a reasonable effort, but failed, to obtain unsecured credit under sections 364(a) and 364(b) of the Bankruptcy Code; (ii) the credit transaction benefits the debtor as necessary to preserve estate assets; and (iii) the terms of the credit transaction are fair,

reasonable, and adequate, given the circumstances of the debtor and proposed lender. *See In re Republic Airways Holdings Inc.*, 2016 WL 2616717, at *11; *In re Los Angeles Dodgers LLC*, 457 B.R. at 312–13; *In re Ames Dep’t Stores, Inc.*, 115 B.R. at 40; *In re Aqua Assoc.*, 123 B.R. 192, 195–99 (Bankr. E.D. Pa. 1991). However, section 364 of the Bankruptcy Code “imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.” *In re Snowshoe Co.*, 789 F.2d 1085, 1088 (4th Cir. 1986). A debtor need only demonstrate “by a good faith effort that credit was not available without” the protections afforded to potential lenders by sections 364(c) of the Bankruptcy Code. *Id.*; *see also In re Plabell Rubber Prods., Inc.*, 137 B.R. 897, 900 (Bankr. N.D. Ohio 1992); *In re Ames Dep’t Stores*, 115 B.R. at 37–39 (debtor must show that it made reasonable efforts to seek other sources of financing under section 364(a) and (b) of the Bankruptcy Code).

29. The Debtors submit they have satisfied the requirements of section 364(c) of the Bankruptcy Code and should thus be authorized to grant liens on unencumbered property and superpriority claims to the DIP Lender on account of the DIP Facility.

30. As set forth above and in the Financing Declarations, prior to the Petition Date, the 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. Accordingly, the Debtors submit that the requirement of section 364 of the Bankruptcy Code is satisfied because alternative credit on more favorable terms is unavailable to the Debtors.

31. The DIP Facility is necessary to preserve the value of the Debtors’ Estates. The Debtors require immediate access to the DIP Facility and use of Cash Collateral to continue operations and preserve the going-concern value of their Estates in order to consummate the Sale Transaction with Backyard. The proceeds of the DIP Facility will allow the Debtors to address

fluctuations in their cash flows, which affects their ability to pay trade creditors and satisfy other obligations that arise in the ordinary course of business. Absent the new money provided under the DIP Facility, these fluctuations may result in the inability to pay key vendors, which would adversely impact the Debtors' operations.

32. Finally, the terms of the DIP Facility are justified under the circumstances. The DIP Facility represents the only source of postpetition financing available to the Debtors and is designed to provide the Debtors with sufficient liquidity to administer these Chapter 11 Cases and facilitate the Sale Transaction. Given the Debtors' circumstances, the Debtors submit that the terms of the DIP Facility, as set forth in the DIP Term Sheet, are fair, reasonable, and adequate. For all of the foregoing reasons, the Debtors submit that they have satisfied the requirements of section 364(c) of the Bankruptcy Code and that the Court should, therefore, authorize the Debtors to provide the DIP Lender with (i) superpriority administrative expense status for the DIP Obligations as provided for in section 364(c)(1) of the Bankruptcy Code and (ii) liens on the Debtors' unencumbered property pursuant to section 364(c)(2) of the Bankruptcy Code.

(b) The Court Should Authorize the Debtors to Grant Priming Liens.

33. In addition to authorizing financing under section 364(c) of the Bankruptcy Code, courts may also authorize a debtor to obtain postpetition credit secured by a lien that is senior or equal in priority to existing liens on encumbered property if the debtor cannot otherwise obtain such credit and the interests of existing lien holders are adequately protected. *See* 11 U.S.C. § 364(d)(1). Specifically, section 364(d)(1) of the Bankruptcy Code provides:

The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

11 U.S.C. § 364(d)(1).

34. “Section 364(d) ‘does not require that debtors seek alternative financing from every possible lender. However, the debtor must make an effort to obtain credit without priming a senior lien.’” *In re Republic Airways Holdings Inc.*, 2016 WL 2616717, at *11. Consent by secured creditors to priming obviates the need to show adequate protection. *See Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 122 (N.D. Ga. 1989) (“[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected.”). What constitutes adequate protection is decided on a case-by-case basis. *See In re Swedeland Dev. Group, Inc.*, 16 F.3d 552, 564 (3d Cir. 1994) (“[A] determination of whether there is adequate protection is made on a case-by-case basis.”); *In re N.J. Affordable Homes Corp.*, No. 05-60442 (DHS), 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006) (“The term ‘adequate protection’ is intended to be a flexible concept.”); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992) (emphasizing that “the varying analyses and results contained in the . . . slew of cases demonstrate that what interest is entitled to adequate protection and what constitutes adequate protection must be decided on a case-by-case basis”). Accordingly, the Debtors may incur “priming” liens under the DIP Facility if they are unable to obtain unsecured or junior secured credit and either (i) the existing secured creditors have consented or (ii) such existing secured creditors are adequately protected.

35. The Debtors seek authority to grant liens to the DIP Lender on a priming basis (subject and subordinate to the Carve-Out). The Debtors submit that the grant of Priming Liens contemplated by the DIP Facility is appropriate because the proposed priming is consensual, and the Debtors are providing adequate protection to those secured creditors whose liens are being

primed. The DIP Lender is the Prepetition Lender—the primary prepetition secured creditor of the DIP Loan Parties—and has consented to the priming features of the DIP Facility. Indeed, the Prepetition Lender has actively participated in negotiating the terms of the proposed financing and/or Cash Collateral usage and agreed to the form of the Interim Order. Furthermore, the Debtors propose to provide adequate protection to the Prepetition Lender in the form of superpriority claims and replacement liens as set forth in the Interim Order. Accordingly, the Debtors submit that they have satisfied the requirements for granting Priming Liens to the DIP Lender pursuant to section 364(d)(1) of the Bankruptcy Code, and they request that the Court authorize them to do so.

C. The Court Should Approve the Proposed Adequate Protection.

36. In addition to advances under the DIP Facility, the Debtors require use of Cash Collateral for working capital to preserve their business operations and to administer these Chapter 11 Cases. Section 363(c) of the Bankruptcy Code governs a debtor’s use of a secured creditor’s cash collateral. Section 363(c) provides, in pertinent part, that:

The trustee may not use, sell, or lease cash collateral . . . unless—

(A) each entity that has an interest in such cash collateral consents; or

(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

11 U.S.C. § 363(c)(2). Furthermore, section 363(e) provides that “on request of an entity that has an interest in property . . . proposed to be used, sold or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest.” 11 U.S.C. § 363(e).

37. Section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See In re Cont’l Airlines*, 91 F.3d

553, 556 (3d Cir. 1996) (en banc). Courts determine what constitutes sufficient adequate protection on a case-by-case basis. *Swedeland Dev. Grp.*, 16 F.3d at 564.

38. As highlighted above, the Debtors propose to provide the Prepetition Secured Parties with adequate protection in various forms, to protect them from any diminution in value of the Prepetition Collateral resulting from the use of the Cash Collateral and the imposition of the automatic stay. Specifically, the Debtors propose to provide the Prepetition Secured Parties with Replacement Liens junior and subordinate only the Carve-Out, Permitted Liens, and the DIP Liens, a superpriority administrative expense claim, and the Adequate Protection Payments in exchange for access to the Prepetition Secured Parties' Cash Collateral. Further, as additional adequate protection, the Debtors have agreed to a waiver of claims arising under section 506(c) of the Bankruptcy Code and a waiver of marshaling of assets with respect to the DIP Collateral and Prepetition Collateral.

39. Cash Collateral will provide the Debtors with liquidity vital to sustain their operations and these Chapter 11 Cases. Accordingly, the Debtors' proposed forms of adequate protection are not only necessary to protect against any diminution in value but are fair, reasonable, and appropriate under the circumstances of these Chapter 11 Cases to ensure that the Debtors are able to continue using the Cash Collateral, subject to the terms and limitations set forth in the Interim Order and the DIP Documents, for the benefit of all parties in interest and their Estates.

D. The Roll-Up of the Prepetition Credit Agreement is Appropriate.

40. An integral component of the DIP Facility is the roll up of the Rescue Financing, which includes up to \$23.3 million of principal accrued under the Prepetition Credit Agreement and shall be approved upon entry of the Interim Order concurrent with the Debtors' entry into the DIP Facility and which shall reduce the amounts due and owing on a dollar-for-dollar basis. The

negotiation of the roll up was a critical component of the overall DIP Facility and was necessary to achieve a consensual restructuring rather than a freefall bankruptcy.

41. The DIP Secured Parties required approval of the roll up upon entry of the Interim Order as a condition for funding the DIP Facility. The DIP Facility—including the proposed roll up—represents the only financing option available to address the Debtors' liquidity needs under these circumstances. Accordingly, the proposed roll up is reasonable, appropriate, and reflective of the current market for debtor-in-possession financings under these circumstances.

42. This Court and courts in other jurisdictions have approved similar financing facilities that include the roll up of prepetition debt. *See, e.g., In re Ebix, Inc.*, No. 23-80004 (SWE) (Bankr. N.D. Tex. Dec. 17, 2023) (approving a roll up loan with a ratio of 0.5:1 of new money to rolled up money); *In re Sunland Medical Foundation*, No. 23-80000 (MVL) (Bankr. N.D. Tex. Nov. 1, 2022) (approving a roll up loan with a ratio of 0.7:1 of new money to rolled up money); *In re AiBUY Opco, LLC*, No. 22-31737 (SGJ) (approving a roll up loan with a ratio of 13.6:1 of new money to rolled up money); *In re Corsicana Bedding*, No. 22-90016 (ELM) (Bankr. N.D. Tex. June 25, 2022) (approving a roll up loan with a ratio of 5:1 of new money to rolled up money).

E. The Court Should Authorize the Debtors to Use Cash Collateral.

43. The Debtors should further be authorized to use Cash Collateral pursuant to section 363(c)(2) of the Bankruptcy Code, which provides, in relevant part, that a debtor:

[M]ay not use, sell, or lease cash collateral . . . unless:

(A) each entity that has an interest in such cash collateral consents; or

(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

11 U.S.C. § 363(c)(2).

44. Section 363(e) of the Bankruptcy Code further provides that “on request of an entity that has an interest in property . . . to be used, sold, or leased by the trustee, the court . . . shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest.” 11 U.S.C. § 362(e).

45. The Prepetition Secured Parties have consented to the Debtors’ use of Cash Collateral in exchange for the provision of adequate protection described above and provided for in the Interim Order. While section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes adequate protection on a case-by-case basis. *See Swedeland Dev. Grp.*, 16 F.3d at 564 (“[A] determination of whether there is adequate protection is made on a case-by-case basis.”).

46. As described herein and in the Moore Declaration, access to Cash Collateral on an interim basis is essential to the continued operation of the Debtors’ business and orderly entry into the Chapter 11 Cases, and the adequate protection offered here in exchange for the use of Cash Collateral is customary and appropriate under the circumstances. Use of Cash Collateral is in the best interest of the Debtors’ Estates and, accordingly, the Court should authorize the Debtors to use Cash Collateral pursuant to section 363(c) of the Bankruptcy Code.

F. The Court Should Authorize the Debtors to Pay the Fees Under the DIP Documents.

47. The DIP Secured Parties have committed substantial capital to ensure successful execution of the DIP Facility and these Chapter 11 Cases. The Debtors have further agreed to pay certain fees of the DIP Lender in exchange for their agreement to provide the financing under the DIP Facility. The terms of the financing, which includes the corresponding fees, is the only financing available to the Debtors under the circumstances of these cases. The consideration being provided to the DIP Secured Parties in exchange for such commitment appropriately compensates

the DIP Secured Parties for their costs and commitment, was the subject of arm's-length negotiation between the Debtors and the DIP Secured Parties and is necessary to obtain the DIP Facility, which will enable the Debtors' continued operations and consummation of the Sale Transaction. The Debtors submit that under these circumstances, authorization to pay such fees is warranted.

G. The DIP Secured Parties Should Be Deemed a Good Faith Lender Under Section 364(e) of the Bankruptcy Code.

48. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal.

Section 364(e) provides that:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

49. The terms of the DIP Documents are the result of good faith, arm's-length negotiation and the Debtors' reasonable and informed determination that the DIP Lender has offered the most favorable postpetition financing terms under the circumstances, which are the only available terms pursuant to which the Debtors could obtain necessary postpetition financing. The terms of the DIP Documents are reasonable under the circumstances, and the proceeds of the DIP Facility will be used only for purposes that are permissible under the Bankruptcy Code and in accordance with the DIP Orders and the DIP Documents (including the Approved Budget). Accordingly, the Court should find that the DIP Lender is a "good faith" lender within the meaning

of section 364(e) of the Bankruptcy Code and are entitled to all the protections afforded by that section.

H. The Automatic Stay Should Be Modified on a Limited Basis and the Procedure for Stay Relief Comports with the Complex Case Procedures.

50. The proposed Interim Order provides that the automatic stay provisions of section 362 of the Bankruptcy Code will be modified to the extent necessary to implement and effectuate the terms and provisions of the DIP Documents and the Interim Order including to (i) permit the Debtors to grant the security interests, liens, and superpriority claims described herein and to perform such acts as may be required to assure the perfection and priority of such security interests and liens, and (ii) permit the DIP Secured Parties to exercise rights and remedies under certain circumstances.

51. The proposed Interim Order provides that, upon the occurrence and during the continuance of an Event of Default under the DIP Term Sheet or any of the DIP Documents; any other breach, default, or other violation by the Debtors of the terms and provisions of the Interim Order and DIP Term Sheet after the delivery of a Carve-Out Trigger Notice, the automatic stay shall terminate solely to the extent necessary for the DIP Agent to exercise all rights and remedies in accordance with the Interim Order. Notably, the Interim Order provides that the DIP Agent must wait for a period of five Business Days after the date a Default Notice is delivered before exercising remedies (the “*Remedies Notice Period*”). During the Remedies Notice Period, the Debtors or other parties in interest may file a motion seeking an emergency hearing before the Court (a “*Stay Relief Hearing*”) and DIP Secured Parties consent to an emergency hearing that occurs within the Remedies Notice Period. The Interim Order authorizes the DIP Agent 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. Stay modifications of this kind are ordinary and standard features of debtor-in-possession financing arrangements and, in the Debtors' business judgment, are reasonable and fair under the circumstances of these Chapter 11 Cases and should be approved. *See, e.g., In re Sunland Medical Foundation*, Case No. 23-80000 (MVL) (Bankr. N.D. Tex. Sep. 28, 2023) (modifying automatic stay as necessary to effectuate the terms of the order); *In re Tuesday Morning Corporation*, Case No. 23-90001 (ELM) (Bankr. N.D. Tex. Apr. 6, 2023) (same); *In re Corsicana Bedding, LLC*, Case No. 22-90016 (ELM) (Bankr. N.D. Tex. July 27, 2022) (same); *In re Northwest Senior Housing Corporation*, Case No. 22-30659 (MVL) (Bankr. N.D. Tex. June 23, 2022) (same); *In re Christian Care Centers, Inc.*, Case No. 22-80000 (SGJ) (Bankr. N.D. Tex. June 23, 2022) (same).

I. Failure to Obtain Immediate Interim Access to the DIP Facility and Cash Collateral Would Cause Immediate and Irreparable Harm.

52. Bankruptcy Rules 4001(b) and 4001(c) provide that a final hearing on a motion to obtain credit pursuant to section 364 of the Bankruptcy Code may not be commenced earlier than 14 days after the service of such motion. Upon request, however, the Court may conduct a preliminary, expedited hearing on the motion and authorize the obtaining of credit and use of cash collateral to the extent necessary to avoid immediate and irreparable harm to a debtor's estate pending a final hearing. Section 363(c)(3) of the Bankruptcy Code authorizes the court to conduct a preliminary hearing and to authorize the use of cash collateral "if there is a reasonable likelihood that the [debtor] will prevail at the final hearing under [section 363(e) of the Bankruptcy Code]." 11 U.S.C. § 363(c)(3). Furthermore, the Complex Case Procedures provide that "a hearing on a Financing Motion . . . will routinely be conducted as a first-day hearing to consider emergency relief for interim use of cash collateral and/or interim debtor-in-possession financing." Complex Case Procedures, D.11.

53. The Debtors respectfully request that the Court hold and conduct a hearing to consider entry of the Interim Order authorizing the Debtors, from entry of the Interim Order until the Final Hearing, to withdraw and borrow funds under the DIP Facility and use Cash Collateral. The Debtors will suffer immediate and irreparable harm if the Interim Order approving the DIP Facility is not entered sooner than 14 days after service of the Motion, if the Debtors are not permitted to access the financing under the DIP Facility in the aggregate principal amount of \$4.0 million during the Interim Period, and if the repayment of the Rescue Financing is not approved upon entry of the Interim Order. The Debtors require access to the DIP Facility prior to the final hearing on the Motion and entry of the Final Order approving the DIP Facility in order to continue operating, to pay their administrative expenses, and to implement the relief requested in the Debtors' other "first-day" motions. This relief is necessary for the Debtors to preserve and maximize value and, therefore, to avoid immediate and irreparable harm and prejudice to the Debtors' Estates and all parties in interest.

REQUEST FOR IMMEDIATE RELIEF

54. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed herein and in the First Day Declaration, authorizing the Debtors to enter into the DIP Documents, obtain the DIP Loans, and grant the protections to the DIP Lender and the Prepetition Lender as set forth in the Interim Order, as well as granting the other relief requested herein, is critical to enabling the Debtors to effectively transition to operating as chapter 11 debtors. Failure to receive such authorization and other relief during the first 21 days of these Chapter 11 Cases would significantly impact the Debtors' ability to swiftly and efficiently consummate a Sale Transaction and/or obtain confirmation of the Plan. As such, the relief requested is necessary in

order for the Debtors to maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

WAIVER OF BANKRUPTCY RULES 6004(a) AND 6004(h)

55. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

56. For the avoidance of doubt, nothing in this Motion is intended to be, nor should it be construed as (i) an implication or admission as to the validity or priority of any claim or lien against the Debtors, (ii) an impairment or waiver of the Debtors’ or any other party in interest’s rights to contest or dispute any such claim or lien, (iii) a promise or requirement to pay any claim, (iv) an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, or (v) a waiver of the Debtors’ or any other party in interest’s rights under the Bankruptcy Code or any other applicable law.

NOTICE

57. Notice of this Motion has been provided by delivery to: (i) the Office of the United States Trustee for the Northern District of Texas; (ii) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (iii) the administrative agent under the Debtors’ prepetition secured credit agreement; (iv) Katten Muchin Rosenman LLP, as counsel to the administrative agent under the Debtors’ prepetition secured credit agreement; (v) 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; (vi) those persons who have formally appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002; (vii) the Internal Revenue Service; (viii) all other applicable government agencies to the extent required by the Bankruptcy Rules or the N.D. Tex. L.B.R; and (ix) the DIP Agent and DIP Lender. In light of the nature of the relief requested in this Motion, the Debtors submit that no further notice is necessary.

NO PRIOR REQUEST

58. No prior motion for the relief requested herein has been made to this Court or any other court.

PRAYER

The Debtors respectfully request that the Court enter the Interim Order, in the form attached hereto as **Exhibit A**, and grant them such other and further relief to which the Debtors may be justly entitled.

Dated: May 10, 2024
Dallas, Texas

/s/ William L. Wallander

VINSON & ELKINS LLP

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

CERTIFICATE OF SERVICE

I certify that on May 10, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

/s/ Matthew D. Struble

One of Counsel

EXHIBIT A

Proposed Interim Order

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

In re:	§	Case No. 24-80045-11
	§	
KIDKRAFT, INC., et al.,	§	(Chapter 11)
	§	
Debtors.¹	§	(Joint Administration Requested)
	§	Re: Docket No.

**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 Interim 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 appropriate 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**”). 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.

E. Notice. Proper, timely, adequate, and sufficient notice of the Motion has been provided 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.

F. 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.

(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.

G. 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 to the DIP Term Sheet. 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. As a 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 claim 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* 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. 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. 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. 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.

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 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 paragraph 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) an “Event of Default” under the DIP Term Sheet or any of the other DIP Documents.

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.

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 delivery of a Carve-Out Trigger Notice 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 F 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, including the Committee (if any) has timely filed a complaint or 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. 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 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.

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 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 [], 2024 before the Court. The Debtors shall promptly mail copies of this Interim Order to the Noticed 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 Kippes and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Texas, in each case, to allow actual receipt of the foregoing no later than ten (10) days prior to the Final Hearing.

End of Order

Order submitted by:**VINSON & ELKINS LLP**

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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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	beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings.
USE OF PROCEEDS:	<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>
APPROVED BUDGET; APPROVED CASH FLOW PROJECTION; AND VARIANCE REPORTS:	<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>

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).

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 (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.

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>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)(1) 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>
DIP COLLATERAL:	<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>
DIP FEES:	<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:	<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> <p>(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;</p> <p>(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;</p> <p>(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"));</p> <p>(iv) the effective date of the Plan;</p>

	<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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(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;

(xiv) no Material Adverse Change shall have occurred;

(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;

(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

(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.

“Material Adverse Change” means a material adverse effect on and/or material adverse developments arising after the

	<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>

	(vi) consummate any amendment, restatement, supplement or other modification to or waiver of any of its organization documents.
EVENTS OF DEFAULT:	<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>>	1	2	3	4	5	6	7	8	9		
Week End>>	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	Exit	Total
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
<u>Operating Cash Flow:</u>											
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, Testing, 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	39,254	291,039	39,254	291,039	39,254	291,039	39,254	291,039	99,254	1,715,874
Operating Expenses	518,985	377,348	266,077	410,319	797,084	535,720	217,965	378,859	545,151	50,000	4,097,506
Intercompany (from)/to China	342,000	660,000	-	-	-	225,000	570,000	-	-	128,226	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	277,479	20,407,750
<u>Restructuring Fees:</u>											
Professional Fees - BK Restructuring	30,000	626,545	574,878	408,212	424,878	408,212	633,212	429,878	526,545	1,225,000	5,287,361
Professional Fees - Trustee Fees (est.)	-	-	-	-	-	-	-	-	-	250,000	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	1,475,000	5,624,611
<u>Other Obligations</u>											
Other Employee Obligations	-	-	-	-	-	-	-	-	58,905	-	58,905
Priority Tax Claims	-	-	-	300,700	-	-	-	-	175,000	275,000	750,700
Severance	93,257	-	-	-	-	-	-	-	57,848	-	151,105
Post Sale Reserve	-	-	-	-	-	-	-	-	-	643,000	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	918,000	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)	(2,670,479)	(10,927,891)
<u>Cash Requirement</u>											
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	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)	(2,670,479)	(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	541,409	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	-	-
<u>DIP Financing</u>											
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	541,409	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	541,409	9,850,815

This is Exhibit "R" referred to in the Affidavit of GEOFFREY WALKER sworn by GEOFFREY WALKER at the City of Dallas, in the State of Texas, before me at the City of Toronto, in the Province of Ontario, on May 15, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits (or as may be)

EMILIE DILLON

LSO NO. 85199L

**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**

CONSENT TO ACT AS INFORMATION OFFICER

KSV RESTRUCTURING INC. hereby consents to act as information officer in the above noted proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and to the terms of the form of Supplemental Order (Foreign Main Proceeding) filed in respect of same

DATED this 15th day of May, 2024.

KSV RESTRUCTURING INC.



By: _____

Name: David Sieradzki
Title: Managing Director

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

SECOND AFFIDAVIT OF GEOFFREY WALKER

OSLER, HOSKIN & HARCOURT LLP

100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

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Email: mcalvaruso@osler.com

Mark Sheeley (LSO# 66473O)
Tel: 416.862.6791
Email: msheelley@osler.com

Lawyers for the Applicant

TAB 2

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

THE HONOURABLE)	WEDNESDAY, THE 15 TH
)	
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**

**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 15, 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 15, 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.

Justice Cavanagh

810 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

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

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

Proceeding commenced at Toronto

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

OSLER, HOSKIN & HARCOURT LLP

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Lawyers for the Applicant

TAB 3

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

THE HONOURABLE)	WEDNESDAY, THE 15 TH
)	
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 15, 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 15, 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.

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.

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. 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**

William L. Wallander (Texas Bar No. 20780750)
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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-mvl11
	§	
KIDKRAFT, INC.	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 75-2293303	§	

In re:	§	Case No. 24-80046-mvl11
	§	
KIDKRAFT EUROPE, LLC	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 26-4153174	§	

In re:	§	Case No. 24-80047-mvl11
	§	
KIDKRAFT INTERMEDIATE HOLDINGS, LLC	§	(Chapter 11)
	§	
Debtor.	§	
	§	
Tax I.D. No. 47-4398800	§	

In re: § **Case No. 24-80048-mvl11**
 §
KIDKRAFT INTERNATIONAL § **(Chapter 11)**
HOLDINGS, INC. §
 §
Debtor. §
 §
Tax I.D. No. 26-4152933 §

In re: § **Case No. 24-80049-mvl11**
 §
KIDKRAFT PARTNERS, LLC § **(Chapter 11)**
 §
Debtor. §
 §
Tax I.D. No. 26-4153268 §

In re: § **Case No. 24-80050-mvl11**
 §
KIDKRAFT INTERNATIONAL IP § **(Chapter 11)**
HOLDINGS, LLC §
 §
Debtor. §
 §
Tax I.D. No. 80-0341841 §

In re: § **Case No. 24-80051-mvl11**
 §
SOLOWAVE DESIGN CORP. § **(Chapter 11)**
 §
Debtor. §
 §
Tax I.D. No. 75-3269294 §

In re: § **Case No. 24-80052-mvl11**
 §
SOLOWAVE DESIGN HOLDINGS § **(Chapter 11)**
LIMITED §
 §
Debtor. §
 §
Canadian Business No. 836770206 §

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.	§	
	§	Re: Docket No. 2
Canadian Business No. 884734302	§	

**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., <i>et al.</i> ,	§	(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**

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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., <i>et al.</i> ,	§	(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**

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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 "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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**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:**VINSON & ELKINS LLP**

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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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	beneficiaries thereof (without duplication) in the CCAA Recognition Proceedings.
USE OF PROCEEDS:	<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>
APPROVED BUDGET; APPROVED CASH FLOW PROJECTION; AND VARIANCE REPORTS:	<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>

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).

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 (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.

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>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>
DIP COLLATERAL:	<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>
DIP FEES:	<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:	<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> <p>(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;</p> <p>(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;</p> <p>(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"));</p> <p>(iv) the effective date of the Plan;</p>

	<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>

- (v) Debtors shall be in compliance with and satisfied the applicable Chapter 11 Milestones;
- (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;
- (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);
- (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;
- (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;
- (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;
- (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;
- (xii) all representations and warranties of the Debtors hereunder shall be true and correct in all material respects;

(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;

(xiv) no Material Adverse Change shall have occurred;

(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;

(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

(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.

“Material Adverse Change” means a material adverse effect on and/or material adverse developments arising after the

	<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>

	(vi) consummate any amendment, restatement, supplement or other modification to or waiver of any of its organization documents.
EVENTS OF DEFAULT:	<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
<u>Operating Cash Flow:</u>										
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	-	-	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
<u>Restructuring Fees:</u>										
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
<u>Other Obligations</u>										
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)
<u>Cash Requirement</u>										
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**

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

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

OSLER, HOSKIN & HARCOURT LLP

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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

**SUPPLEMENTAL APPLICATION RECORD OF THE
APPLICANT
VOLUME 2 OF 2**

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