

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re ) Case No. \_\_\_\_\_  
)  
) NOTICE OF **PRELIMINARY**  
) HEARING ON MOTION  
) FOR USE OF CASH COLLATERAL  
) TO OBTAIN CREDIT  
Debtor(s) ) (Check One)

YOU ARE NOTIFIED THAT:

1. The undersigned moving party, \_\_\_\_\_, filed a Motion For Use of Cash Collateral To Obtain Credit (*check one*). A copy of the motion is attached; and it includes (i) the statement required by [Local Form #541.5](#), and (ii) the following allegations:

a. The immediate and irreparable harm that will come to the estate pending a final hearing is \_\_\_\_\_.

b. The amount of cash collateral credit (*check one*) necessary to avoid the harm detailed above prior to the final hearing is \_\_\_\_\_.

2. The name and service address of the moving party's attorney (or moving party, if no attorney) are: \_\_\_\_\_.

3. A **PRELIMINARY** HEARING on the motion WILL BE HELD ON \_\_\_\_\_ AT \_\_\_\_\_ IN \_\_\_\_\_.  
Testimony will be received if offered and admissible.

4. If you wish to object to the motion, you must do one or both of the following: (1) attend the preliminary hearing; and/or (2) file with the Clerk of Court (i.e., if the 5-digit portion of the Case No. begins with "3" or "4", mail to 1001 SW 5<sup>th</sup> Ave #700, Portland OR 97204; OR if it begins with "6" or "7", mail to 405 E 8<sup>th</sup> Ave #2600, Eugene OR 97401), a written response, which states the facts upon which you will rely and, if the response is filed within three business days before the hearing, notify the judge's chambers by telephone immediately after filing the document, as required by LBR 9004-1(b).

5. On \_\_\_\_\_ copies of this notice and the motion were served pursuant to FRBP 7004 on the debtor(s); any debtor's attorney; any trustee; any trustee's attorney; members of any committee elected pursuant to 11 U.S.C. §705; any creditors' committee chairperson [or, if none serving, on all creditors listed on the list filed pursuant to FRBP 1007(d)]; any creditors' committee attorney; the U.S. Trustee; and all affected lien holders whose names and addresses used for service are as follows:

\_\_\_\_\_  
Signature of Moving Party or Attorney OSB #

\_\_\_\_\_  
(If debtor is movant) Debtor's Address & Taxpayer ID#(s) (last 4 digits)

541.1 (6/1/15)

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7  
8 Proposed Attorneys for Debtors and Debtors-in-Possession

9  
10 IN THE UNITED STATES BANKRUPTCY COURT  
11 FOR THE DISTRICT OF OREGON

12 In re ) Case No. 16-32293-pcm11  
13 DePaul Industries, and ) (Proposed Lead Case)  
14 DePaul Services, Inc., ) Case No. 16-32294-pcm11  
15 Debtors. ) (Joint Administration Pending)  
16 ) DEBTORS' MOTION FOR  
17 ) AUTHORIZATION TO OBTAIN  
18 ) SECURED CREDIT AND USE CASH  
19 ) COLLATERAL ON AN INTERIM AND  
20 ) FINAL BASIS  
21 ) **EXPEDITED HEARING REQUESTED**

21 DePaul Industries ("DPI") and DePaul Services, Inc. ("DSI"), as debtors and  
22 debtors-in-possession ("Debtors") in this case and in a companion Chapter 11 case filed  
23 in this Court, hereby move this Court (this "Motion") for entry of interim and final orders  
24 authorizing Debtors to obtain secured credit and use cash collateral, and grant liens and  
25 claims, for the purposes and on the terms set forth herein. In support of this Motion,  
26 Debtors incorporate the statements contained in the Declaration of Thomas Horey in

1 Support of First Day Pleadings ("Horey Declaration") filed contemporaneously herewith,  
2 and further respectfully state as follows:

3 **I. JURISDICTION AND VENUE**

4 On June 10, 2016 ("Petition Date") the Debtors each filed voluntary petitions for  
5 relief under Chapter 11 of the Bankruptcy Code with the clerk of this Court. Debtors  
6 continue to operate their businesses and manage their assets as debtors-in-possession  
7 pursuant to Bankruptcy Code Sections 1107(a) and 1108.

8 This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and  
9 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).  
10 The bases for the relief requested herein are Sections 105, 361, 362, 363(c)(2),  
11 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), and 507 of Title 11 of the United States Code,  
12 11 U.S.C. §§ 101 et. seq. (as amended, the "Bankruptcy Code"), Rules 2002, 4001(b),  
13 4001(c), 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the  
14 "Bankruptcy Rules"), and Rules 2002-1, 4001—1, 6004-1, and 9013-1 of the United  
15 States Bankruptcy Court for the District of Oregon (the "Local Rules"). Venue is proper  
16 in this district pursuant to 28 U.S.C. § 1408.

17 **II. SUMMARY OF RELIEF REQUESTED**

18 Debtors, pursuant to Sections 105, 361, 362, 363(c)(2), 364(c)(1), 364(c)(2),  
19 364(c)(3), 364(d)(1), and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001(b),  
20 4001(c), 6004, and 9014, and Local Rules 2002-1, 4001-1, 6004-1, and 9013-1, seek  
21 the following relief:

22 A. Authorizing Debtors to obtain postpetition financing pursuant to a debtor-in-  
23 possession credit agreement, substantially in the form annexed to the Interim DIP Order  
24 as Exhibit A (as amended, supplemented, or otherwise modified from time to time, the  
25 "DIP Credit Agreement") by and between Debtors, as Borrowers, and Associated  
26 Management Consultants, Inc., as Lender (together with its successors and assigns,

1 the “DIP Lender”), and together with all other related agreements, documents, and  
2 instruments contemplated thereby (collectively, the “DIP Loan Documents”), authorizing  
3 Debtors to borrow up to \$1,000,000.00 (\$700,000 on an interim basis), plus all other  
4 interest, fees, and expenses due and payable under the DIP Loan Documents (the  
5 “Obligations”), such financing to be: (A) secured by first-priority, perfected secured liens  
6 on all pre-petition and post-petition Receivables and Related Contracts (as defined in  
7 the DIP Loan Documents)<sup>1</sup> and the proceeds thereof, pursuant to Sections 364(d)(1) of  
8 the Bankruptcy Code; and (B) secured by a perfected lien upon all other tangible and  
9 intangible property of Debtor of any kind, excluding any avoidance actions and the  
10 proceeds thereof under Sections 502(d), 544, 545, 547, 548, 549, 550 and 551 of the  
11 Bankruptcy Code (the “Avoidance Actions”), pursuant to Sections 364(c)(2) and  
12 364(c)(3) of the Bankruptcy Code;

13 B. Granting the DIP Lender superpriority administrative claims in the Debtor’s  
14 Chapter 11 cases pursuant to Section 364(c)(1) of the Bankruptcy Code, with such  
15 claims to be senior in right of payment over any and all administrative expenses of the  
16 kinds specified in Sections 503(b) and 507(b) of the Bankruptcy Code or otherwise  
17 (such credit facility being referred to herein as the “DIP Facility”);

18 C. Authorizing Debtors to use the Cash Collateral (as defined below) of the DIP  
19 Lender, RSF Social Investment Fund Inc. (“RSF”), Access Business Finance L.L.C.  
20 (“Access”), and any other person or entity claiming an interest in Cash Collateral,  
21 pursuant to Section 363(c) of the Bankruptcy Code;

22 D. Scheduling on an emergency basis an interim hearing (the “Interim Hearing”)  
23 pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) to consider entry of an interim  
24 order substantially in the form attached hereto as Exhibit A (the “Interim DIP Order”)  
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26 <sup>1</sup> Initially capitalized terms not otherwise defined herein will have the meanings ascribed to those terms in the DIP Loan Documents.

1 which, among other things, (i) authorizes, on an interim basis, the Debtors' use of Cash  
2 Collateral for the purposes of funding expenditures consistent with the budget attached  
3 to the DIP Credit Agreement as Exhibit D and to the Interim DIP Order as Exhibit B (as  
4 revised or updated from time to time, the "Budget"), subject to the variances permitted  
5 therein, (ii) approves, on an interim basis, the postpetition secured financing to be made  
6 pursuant to the DIP Loan Documents and authorizes the Debtors to execute and deliver  
7 the DIP Loan Documents and to obtain loans on an interim basis under the DIP Loan  
8 Documents in the aggregate principal amount not to exceed \$700,000, and (iii) grants  
9 adequate protection to Access and RSF; and

10 E. Scheduling a final hearing (the "Final Hearing") to consider entry of a final  
11 order authorizing, among other things, Debtor's obtaining financing under the DIP Loan  
12 Documents and use of the DIP Lender's, RFS's, and Access' Cash Collateral on a final  
13 basis (the "Final DIP Order").

14 **III. INTRODUCTORY STATEMENT REGARDING THE MATERIAL TERMS OF DIP**  
15 **FACILITY AND USE OF CASH COLLATERAL**

16 The material terms of the DIP Facility and use of Cash Collateral are set forth  
17 below:

18 **DIP Facility and Borrowing Limits. (Section 2.1 of DIP Credit Agreement;**  
19 **Paragraph 3 of the Interim DIP Order).** The DIP Facility will be comprised of a senior  
20 secured, super-priority revolving credit facility in the principal amount of \$1,000,000.00  
21 (the "Commitment"), with \$700,000 of such amount available on an interim basis  
22 between the date of entry of the Interim DIP Order and entry of a Final DIP Order.

23 **Use of Proceeds (Preliminary Statement B and Section 5.2 of DIP Credit**  
24 **Agreement; Paragraphs 2 and 3 of the Interim DIP Order).** The DIP Facility will be  
25 used for working capital to fund payroll and other general expenses of Debtors during  
26 the pendency of their Chapter 11 cases, and to pay certain fees and other costs and  
expenses (including professional fees and expenses, and US Trustee fees) consistent

1 with the budget (the initial budget attached to the DIP Credit Agreement as Exhibit D  
2 and the Interim DIP Order as Exhibit B, together with all updates thereto which are  
3 acceptable to the DIP Lender in its reasonable discretion, the "Budget"), subject to  
4 certain permitted variances.

5 **Names of Entities with an Interest in Cash Collateral.** The entities with an  
6 interest in cash collateral are:

7 RSF – first position, pre-petition liens and security interests in the Debtors’  
8 headquarters building and in all personal property, including accounts;

9 Access – second position, pre-petition liens and security interest in the Debtors’  
10 headquarters building and all personal property, including accounts;

11 DIP Lender – proposed first position, priming liens and security interests in  
12 accounts and other receivables, and junior liens and security interests in the Debtors’  
13 headquarters building and all other property.

14 Small Business Term Loans, Inc. (“SBTL”) and Ibis Capital Group (“Ibis”) may  
15 claim an interest in Cash Collateral; however, the Debtors do not believe either SBTL or  
16 Ibis were granted a security interest or lien in accounts from which essentially all Cash  
17 Collateral is generated. Furthermore, it does not appear that either SBTL or Ibis  
18 perfected their security interest, if any, by filing an effective UCC-1 financing statement  
19 (See discussion below under General Background Facts).

20 **Use of Cash Collateral (Sections 5.2 and 7.1(m) of DIP Credit Agreement;**  
21 **Paragraph 2 and 21 of Interim DIP Order).** Debtors will be entitled to use the DIP  
22 Lender’s, RSF’s, and Access’ Cash Collateral, including the loan proceeds from the DIP  
23 Facility and receipts from the furnishing of labor and the sale of inventory and other  
24 goods to fund their operations and pay professional fees and US Trustee fees pursuant  
25 to the Budget and in accordance with the Loan Documents.

26 **Interest Rate and Interest Payments (Section 2.5 of DIP Credit Agreement;**

1 **Paragraph 5 of Interim DIP Order).** Outstanding advances under the DIP Facility will  
2 bear interest at the Applicable Rate - prime (currently 3.5%) *plus* 9.46% (initial total  
3 12.96% annual percentage rate = 0.000360 daily rate) as set forth in the DIP Credit  
4 Agreement. Upon the occurrence and during the continuance of an Event of Default,  
5 the aggregate principal amount of all outstanding obligations under the DIP Facility will  
6 bear interest at the rate described above, plus 2%. Interest in arrears on the  
7 outstanding principal balance will be payable monthly at the Applicable Rate.

8 **DIP Facility Fees (Section 2.6, 4.1(b), and 8.5 of DIP Credit Agreement;**  
9 **Paragraph 6 of Interim DIP Order).**

10 (1) A \$10,000 application fee was paid pre-petition to the DIP Lender.

11 (2) A \$20,000 facility fee and the fees and expenses of the DIP Lender in  
12 connection with the DIP Facility, including the DIP Lender's counsel's fees, will be due  
13 and payable upon closing of the DIP Facility and may be paid out of borrowings from  
14 the DIP Facility.

15 (3) Each month, the Debtors will pay an unused line fee in an amount equal to  
16 the product of (i) the difference, not to exceed the Minimum Balance amount, between  
17 One Million Dollars (\$1,000,000) and the average aggregate daily principal amount of all  
18 Loans outstanding during such calendar month, and (ii) the Prime Rate.

19 (4) Each month, the Debtors will pay a minimum line fee in an amount equal  
20 to the product of (i) the positive difference between the Minimum Balance (\$500,000)  
21 and the average daily principal amount of all Loans outstanding during such calendar  
22 month, and (ii) the Applicable Rate.

23 (5) If any payment is not paid in full by the Debtors when due, the DIP Lender  
24 may collect a late fee on such unpaid amount equal to five percent (5%) of such  
25 amount.

26 (6) Miscellaneous fees listed on Exhibit E to the DIP Credit Agreement will be

1 payable by the Debtors.

2 **Events of Default (Section 7.1 of DIP Credit Agreement; Paragraph 13 of**  
3 **Interim DIP Order).** The following Events of Default are included in the DIP Credit  
4 Agreement:

5 (a) the Borrowers fail to pay any principal of any Loan when due in  
6 accordance with the terms hereof; or the Borrowers fail to pay any interest on  
7 any Loan or any other amount payable hereunder or under any other Loan  
Document, within two days after any such interest or other amount becomes due  
in accordance with the terms hereof; or

8 (b) any representation or warranty made or deemed made by the Borrowers  
9 herein or in any other Loan Document or that is contained in any certificate,  
10 document or financial or other statement furnished by it at any time under or in  
11 connection with this Agreement or any such other Loan Document shall prove to  
have been inaccurate in any material respect on or as of the date made or  
deemed made; or

12 (c) the Borrowers fail to perform or observe any term, covenant or agreement  
contained in any of Sections 2.10 or 2.11, Section 5 or Section 6; or

13 (d) the Borrowers default in the observance or performance of any provision  
14 contained in this Agreement or any other Loan Document (other than as provided  
15 in paragraphs (a) through (c) of this Section), and such default continues  
unremedied for a period of five (5) Business Days after written notice to the  
Borrowers from the Lender; or

16 (e) the Borrowers become unable or admit in writing their inability, or fail  
17 generally, to pay their debts that are incurred after the Filing Date as they  
become due; or

18 (f) (i) the Borrowers engage in any “prohibited transaction” (as defined in  
19 Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any  
“accumulated funding deficiency” (as defined in Section 302 of ERISA), whether  
20 or not waived, shall exist with respect to any Plan or any Lien in favor of the  
PBGC or a Plan shall arise on the assets of the Borrowers or any Commonly  
21 Controlled Entity, (iii) a Reportable Event shall occur with respect to, or  
proceedings shall commence to have a trustee appointed, or a trustee shall be  
22 appointed, to administer or to terminate, any Single Employer Plan, which  
Reportable Event or commencement of proceedings or appointment of a trustee  
23 is, in the reasonable opinion of the Lender, likely to result in the termination of  
such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall  
24 terminate for purposes of Title IV of ERISA, (v) the Borrowers or any Commonly  
Controlled Entity shall, or in the reasonable opinion of the Lender is likely to,  
25 incur any liability in connection with a withdrawal from, or the Insolvency or  
Reorganization of, a Multiemployer Plan or (vi) any other event or condition shall  
26 occur or exist with respect to a Plan; and in each case in clauses (i) through (vi)  
above, such event or condition, together with all other such events or conditions,  
if any, could, in the sole judgment of the Lender, reasonably be expected to have



1 a Material Adverse Effect; or

2 (g) any of the Security Documents shall cease, for any reason, to be in full  
3 force and effect, or the Borrowers shall so assert, or any Lien created by any of  
4 the Security Documents shall cease to be enforceable and of the same effect  
5 and priority purported to be created thereby; or

6 (h) an order (which has not been stayed) with respect to the Case shall be  
7 entered by the Bankruptcy Court appointing, or the Borrowers shall file an  
8 application for an order with respect to the Case seeking the appointment of, (i) a  
9 trustee under section 1104 of the Bankruptcy Code, or (ii) an examiner with  
10 enlarged powers relating to the operation of the business (powers beyond those  
11 set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section  
12 1106(b) of the Bankruptcy Code; or

13 (i) an order shall be entered by the Bankruptcy Court converting the Case to  
14 a Chapter 7 case or the Borrowers shall file a motion or not oppose a motion  
15 seeking such relief, unless such motion is consented to by the Lender; or

16 (j) the Bankruptcy Court shall enter an order or orders granting relief from the  
17 automatic stay under section 362 of the Bankruptcy Code to the holder or holders  
18 of any security interest to permit foreclosure (or the granting of a deed in lieu of  
19 foreclosure or the like) on any Collateral of the Borrowers other than Collateral  
20 that is of immaterial value; or

21 (k) (i) the Final DIP Order shall not have been entered by the date that is 21  
22 days after the Effective Date, (ii) a Financing Order shall be vacated, stayed,  
23 reversed, modified or amended in any respect, (iii) a Financing Order shall cease  
24 to create a valid and perfected Lien or to be in full force and effect, or (iv) the  
25 Borrowers fail to comply with a Financing Order; or

26 (l) the Borrowers shall make any payment on account of any prepetition  
Indebtedness or trade payable (excluding payments effected by a setoff of  
obligations as permitted by section 553 of the Bankruptcy Code) without the  
express prior written consent of the Lender and the approval of the Bankruptcy  
Court; or

(m) the Borrowers shall file a motion in the Case (i) to use Cash Collateral of  
the Lender under section 363(c) of the Bankruptcy Code without the express  
prior written consent of the Lender (it being understood and agreed that the  
Lender consents to the proposed use of Cash Collateral on the terms and  
conditions set forth in the Financing Orders), (ii) to recover from any portions of  
the Collateral any costs or expenses of preserving or disposing of such Collateral  
under section 506(c) of the Bankruptcy Code, or (iii) to take any other action or  
actions materially adverse to the Lender or its rights and remedies hereunder or  
under any of the other Loan Documents or the Lender's interest (as lender under  
the Loan Documents) in any of the Collateral; or

(n) an order shall be entered by the Bankruptcy Court dismissing the Case  
that does not contain a provision for termination of the Commitment and payment  
in full in cash of all Obligations of the Borrowers hereunder and under the other  
Loan Documents upon entry thereof; or

1 (o) the Borrowers' total expenses and disbursements for any period are more  
2 than ten percent greater than the total expenses and disbursements for that  
3 period predicted by the Budget, provided that if in any period, the Borrowers' total  
4 expenses and disbursements are less than predicted for that period by the  
5 Budget, the difference may be carried forward to subsequent periods; or

6 (p) the Borrowers' exclusive right to propose a plan of reorganization is  
7 terminated or expires; or

8 (q) a Plan of Reorganization is not confirmed and does not become effective  
9 by the Scheduled Maturity Date

10 **Maturity Date (Definitions and Sections 2.3 and 7.1 of DIP Credit**  
11 **Agreement).** The DIP Facility will mature, and all indebtedness, liabilities, and other  
12 obligations of Debtor will be due and payable in full in cash, on the earliest to occur of (i)  
13 January 31, 2017 (the "Scheduled Maturity Date"), and (ii) the effective date of a  
14 confirmed plan of reorganization in Debtors' Chapter 11 reorganization cases.

15 **DIP Facility Collateral, Priming of RSF's and Access' Liens in Receivables,**  
16 **and Adequate Protection (Sections 2.10 and 2.11 and 2.12 of DIP Credit**  
17 **Agreement; Paragraphs 8, 9, 19, and 20 of Interim DIP Order).** The DIP Facility will  
18 be secured by a first-priority perfected security interest and lien in favor of the DIP  
19 Lender on all of Debtors' pre-petition and post-petition Receivables and Related  
20 Contracts, and in any other assets not subject to an existing lien, and by junior liens in  
21 all other assets of the Debtors, but excepting the Avoidance Actions,. The liens in the  
22 Receivables and Related Contracts granted to the DIP Lender will prime the pre-petition  
23 liens of RSF and Access in the pre-petition Receivables and Related Contracts, but will  
24 not prime any other valid, perfected, pre-petition liens of RSF or Access in any other  
25 assets of the Debtors. RSF and Access will be granted replacement liens in all post-  
26 petition Receivables and Related Contracts, subject only to the security interests and  
liens of the DIP Lender in the post-petition Receivables and Related Contracts. RSF  
and Access will also be granted superpriority administrative expense claims under  
Section 364(c)(1) with priority over any and all administrative expenses of the kinds

1 specified in Sections 503(b) and 507(b) of the Bankruptcy Code, junior only to the  
2 superpriority administrative expense claims of the DIP Lender to be granted under  
3 Section 364(c)(1). Furthermore, the Debtors believe the substantial equity cushion in  
4 the Debtors' headquarters building alone provides RSF with adequate protection, and  
5 Access' second position lien in the building, together with its existing liens in all other  
6 assets provides Access with adequate protection despite the priming of their liens in the  
7 Debtors' Receivables and Related Contracts for the benefit of the DIP Lender (see  
8 discussion below regarding the value of RSF's and Access' pre-petition collateral). As  
9 additional adequate protection, the Budget provides for interest only payments to  
10 Access, and continuing mortgage payments to RSF on the Debtors' headquarters  
11 building. All Receivable collections will initially be deposited in a lockbox account  
12 maintained by the DIP Lender and promptly advanced to the Debtors absent an Event  
13 of Default.

14 **Perfection of Liens (Sections 2.10 and 3.2 of DIP Credit Agreement;**  
15 **Paragraph 12 of Interim DIP Order).** Entry of the Interim DIP Order will automatically  
16 perfect the liens granted by the Interim DIP Order, RSF, and Access without the need  
17 for their filing of any financing statements, mortgages, or other documents with any  
18 county, state, or other recording offices.

19 **Superpriority Administrative Expense (Sections 2.10 and 3.9 of DIP Credit**  
20 **Agreement; Paragraph 7 of Interim DIP Order).** The DIP Lender's claims under the  
21 Loan Documents will be allowable under Section 503(b)(1) of the Bankruptcy Code as  
22 an administrative expense with priority pursuant to the provisions of Section 364(c)(1) of  
23 the Bankruptcy Code over all other administrative expenses of the kind specified in  
24 Section 503(b) or Section 507(b) of the Bankruptcy Code and all other expenses and  
25 claims, subject to the priority of the professionals to the funds deposited in the  
26 Professional Fees Account as described below.

1           **Payment of Professional Fees (Section 5.2 of DIP Credit Agreement;**  
2           **Section 21 of Interim DIP Financing & Cash Collateral Order).** So long as no Event  
3 of Default shall have occurred and be continuing, Debtors will be permitted to segregate  
4 weekly in a professional fees set aside account (the “Professional Fees Account”) those  
5 amounts listed in the Budget for professional fees and expenses of the Debtors’ and the  
6 Unsecured Creditors’ Committee’s attorneys, accountants, and other professionals  
7 employed under Section 327 of the Bankruptcy Code that may become allowed and  
8 payable under Sections 330 and 331 of the Bankruptcy Code, with such funds to be  
9 used for payment of professional fees and expenses when allowed, but subject to the  
10 rights of any party in interest to object to any fees, expenses, reimbursement, or  
11 compensation of any professionals. The funds in the Professional Fees Account will not  
12 be subject to the DIP Lender’s superpriority claim, or to RSF’s and Access’ adequate  
13 protection claims, and will be subject to the DIP Lender’s, RSF’s, and Access’ liens only  
14 to the extent there are funds left in the Professional Fees Account after payment of all  
15 allowed professional fees and expenses.

16           **IV. DISCOURAGED PROVISIONS UNDER LBF 541.5 PROCEDURES RE;**  
17           **MOTIONS FOR USE OF CASH COLLATERAL OR TO OBTAIN CREDIT**

18           The DIP Credit Agreement and Interim DIP Order do not contain any of the  
19 discouraged provisions set forth in LBF 541.5 “Procedures Re: Motions for Use of Cash  
20 Collateral or to Obtain Credit” except as follows:

21           **Automatic Stay. (Section 7.1 of DIP Credit Agreement, Paragraph 14 of**  
22           **Interim DIP Order).** The DIP Credit Agreement and Interim DIP Order allow the DIP  
23 Lender upon the occurrence of and during the continuance of an Event of Default to  
24 exercise its rights and remedies and take all or any of the following actions without  
25 further relief from the automatic stay pursuant to section 362(a) of the Bankruptcy Code  
26 or any other applicable stay or injunction (which have been modified and vacated, as

1 heretofore ordered, to the extent necessary to permit such exercise of rights and  
2 remedies and the taking of such actions) or further order of or application to this Court:  
3 (a) terminate its obligation to make further loans under the DIP Facility; (b) charge a  
4 default rate of interest as set forth in the DIP Credit Agreement; (c) terminate the  
5 Debtors' right to use Cash Collateral and require the Debtors to segregate and preserve  
6 all Cash Collateral for the benefit of the DIP Lender; (d) declare the principal of and all  
7 accrued interest, fees, and other liabilities constituting the Obligations to be immediately  
8 due and payable; and/or (e) take any other action or exercise any other right, power or  
9 remedy available to the DIP Lender under the DIP Loan Documents, the Interim DIP  
10 Order, and/or at law or in equity; provided, however, that the DIP Lender may not  
11 exercise its rights under clauses (c), (d) or (e) without first (i) giving the Debtors at least  
12 five business days' written notice, by facsimile, overnight courier or hand delivery, of  
13 any such Event of Default, which shall state therein the DIP Lender's proposed  
14 enforcement action (the "Enforcement Notice"), and (ii) filing a copy of such  
15 Enforcement Notice in the Debtors' Chapter 11 cases. If the Debtors or any other party  
16 in interest challenges the DIP Lender's proposed enforcement action, any such party  
17 may request an expedited hearing before this Court (subject to the Court's availability)  
18 and the DIP Lender shall be permitted immediately to take any action described in  
19 clauses (a) and (b) as described above, but unless the Court orders otherwise, the DIP  
20 Lender shall not take the actions described in clause (c), (d) or (e) above pending any  
21 such hearing. In the event the DIP Lender becomes entitled to exercise its rights and  
22 remedies regarding the DIP Facility Collateral upon an Event of Default or otherwise,  
23 the DIP Lender will not be subject to the equitable doctrine of "marshaling" or any other  
24 similar doctrine with respect to any DIP Facility Collateral.

25 **Right to Move for Use of Cash Collateral upon Default without the DIP**  
26 **Lender's Consent (Section 7.1(m) of DIP Credit Agreement).** The DIP Credit

1 Agreement provides that Debtors will be in default if either of them files a motion to use  
2 cash collateral of the DIP Lender without the prior written consent of the DIP Lender (it  
3 being understood and agreed that the DIP Lender consents to the proposed use of cash  
4 collateral on the terms and conditions set forth in the Interim DIP Order) but does not  
5 prohibit Debtors from seeking authority from the Court for further use of cash collateral  
6 upon default. Debtors believe the above provision is justified because the DIP Facility  
7 financing is designed to provide Debtors with sufficient financing such that Debtors  
8 should not need to seek to modify the terms for use of the DIP Lender's cash collateral  
9 as agreed to.

10 **Waiver of Right to Surcharge DIP Lender's Collateral Pursuant to Section**  
11 **506(c) (Section 7.1(m) of DIP Credit Agreement; Paragraph 10 or Interim DIP**  
12 **Order).** The Interim DIP Order provides for a waiver of the Debtors' and any other  
13 party's right to assert a claim under Section 506(c) of the Bankruptcy Code to surcharge  
14 the DIP Lender's collateral for the costs and expenses of preserving, protecting, and  
15 disposing the Collateral for the benefit of the DIP Lender. The Debtors believe this  
16 provision is justified because the DIP Lender's senior liens in Receivables and Related  
17 Contracts is more than sufficient to satisfy its claims in full with the need for it to rely on  
18 any other collateral that might require the Debtors or a trustee to incur costs to  
19 preserve, protect, and dispose of such collateral. All remaining collateral will still be  
20 subject to potential Section 506(c) claims against those secured creditors that would  
21 likely be paid from such other collateral. Furthermore, any surcharge claim is largely  
22 irrelevant because the DIP Lender is being provided with a superpriority administrative  
23 expense claim under Section 364(c)(1) ahead of all other claims and expenses.

24 **Waiver of Right to Prime DIP Lender's Liens. (Paragraph 9 of Interim DIP**  
25 **Order).** The Interim DIP Order provides that the DIP Lender's liens shall not be  
26 subordinated or made pari passu with any other lien or security interest. The Debtors

1 believe this provision is justified as the DIP Lender is providing up to \$1,000,000 in post-  
2 petition financing which is critical to the Debtors being able to remain in business,  
3 provide jobs to its disabled workers, and propose a plan of reorganization, with the  
4 likelihood of the Debtors needing, or being able to obtain Court authorization of an  
5 additional priming loan, remote.

6 The above items were required by the DIP Lender as a condition to the DIP  
7 Lender agreeing to provide the DIP Facility. For the reasons set forth above and for the  
8 reasons set forth below under the section titled "THE DIP FINANCING SHOULD BE  
9 APPROVED," Debtors believe the DIP Facility should be approved notwithstanding the  
10 inclusion of the above provisions.

11 **IV. GENERAL BACKGROUND FACTS**

12 DPI is an Oregon non-profit corporation headquartered in Portland, Oregon. DPI  
13 was founded in 1971 in Portland as a nonprofit with a mission of providing employment  
14 opportunities for people with disabilities. DPI first operated as a vocational training and  
15 employment program for a small number of people with developmental disabilities.  
16 When social service funding began to dry up in the 1980s, DPI began exploring  
17 alternative revenue options and adopted a double bottom line approach—using  
18 business to drive social good. Declaration of Thomas Horey (hereinafter, "Horey  
19 Declaration"), ¶ 2.

20 Over its 46 years, DPI has embarked on many entrepreneurial job-creating  
21 ventures, from building lawn furniture to cleaning bus shelters. In the 1990s, DPI  
22 established two divisions with high needs for labor that remain at its core today:  
23 temporary staffing and security services. These divisions employ people with many  
24 types of disabilities, whether physical, related to a chronic illness or mental health issue,  
25 or developmental; they also provide jobs for many veterans with disabilities. DPI's  
26 associates often face additional barriers, such as having previously been homeless or

1 lacking basic education or transportation. Horey Declaration, ¶ 3.

2 DSI was formed in 2004 as a separate Oregon non-profit corporation to  
3 segregate DPI's work for governmental entities from its non-governmental work. DPI  
4 continued with the governmental contracts and DSI took over the non-governmental  
5 portion of the business. Horey Declaration, ¶ 4.

6 While Portland has hundreds of social service providers that focus on vital needs  
7 like food, shelter, and clothing, the Debtors inhabit a unique space: directly providing the  
8 jobs and work experience that help individuals become self-sufficient and support their  
9 families. They provide impact on a large scale – by DPI's 40th anniversary in 2011, had  
10 trained or employed more than 15,000 people with disabilities, and paid wages and  
11 benefits of more than \$150 million. DPI and DSI issued more than 2,000 W-2s to its  
12 staffing and security associates for 2015 alone. Horey Declaration, ¶ 5.

13 In 2006, the Debtors embarked on a new mission-driven opportunity with high  
14 employment needs: a food and consumer goods manufacturing facility located in a  
15 warehouse on Portland's Hayden Island. Despite many efforts, this venture was never  
16 able to reach profitability. After nearly breaking even in FY 2013 and 2014, the Debtors  
17 were hit with two unexpected losses. In summer 2015, they lost a large customer that  
18 placed \$1 million in annual orders for packaging spices. Then in January 2016, their  
19 largest customer (which accounted for 50% of the packaging revenue and was a  
20 customer since 2008) moved to a different packager with little notice. Despite drastic  
21 cost saving measures and sales efforts to replace the lost revenue, these losses were  
22 unrecoverable and the Debtors were forced to recently make the difficult decision to  
23 curtail the unprofitable manufacturing and packaging lines of business and move the  
24 remaining profitable lines into joint ventures with other non-profits or rent smaller and  
25 less expensive space for such operations. Horey Declaration, ¶ 6.

26 The Debtors seek to reorganize in order to focus on their core mission-driven



1 businesses: staffing and security. This portion of the business is stable and profitable,  
2 and provides a lifeline for thousands of individuals who would otherwise have difficulty  
3 finding and retaining a job. Horey Declaration, ¶ 7.

4 The Debtors generate their revenues by placing their employees with outside  
5 companies and governmental entities that hire them to work in their operations, and by  
6 also utilizing their employees to fulfill various private and government contracts for  
7 goods and services. The Debtors finance their operations primarily by borrowing  
8 against their accounts receivable, which are generated through their placement of  
9 employees with outside businesses and from their own sale of goods. Prior to filing  
10 Chapter 11, the Debtors' financing needs were met by Access, which financed the  
11 Debtors' accounts receivable to provide the Debtors with a steady source of cash for  
12 their operations. Horey Declaration, ¶8.

13 RSF Social Investment Fund, Inc. ("RSF") and Access hold blanket security  
14 interests and liens in all or essentially all of the Debtors' assets, pursuant to various loan  
15 agreements, notes, security agreements, trust deeds, and other documents, to secure  
16 obligations in the aggregate principal amount of approximately \$1,872,188 (the "RSF  
17 Obligations") and \$2,823,425 (the "Access Obligations"). RSF's security interests were  
18 perfected by UCC financing statement filed on November 15, 2013. Access' security  
19 interests were perfected by UCC financing statements filed on November 24, 2014.  
20 RSF holds a first position trust deed on the Debtors' headquarters building that was  
21 recorded on approximately November 15, 2013. Access holds a second position trust  
22 deed on the Debtors' headquarters building that was recorded on approximately  
23 November 24, 2014. Horey Declaration, ¶ 9.

24 In approximately June 2015, DPI signed an undated "Secured Promissory Note"  
25 for \$136,000 payable to Small Business Terms Loans, Inc. ("SBTL"). An unsigned copy  
26 of that note is attached as Exhibit 7 to the Horey Declaration. The present balance

1 owing on the note is approximately \$30,160. The note provides SBTL with a security  
2 interest in inventory and equipment, but specifically excludes accounts. A UCC records  
3 search did not reveal any filed financing statement listing SBTL as the secured party.  
4 Horey Declaration, ¶ 10. As a result, SBTL does not have a valid, perfected security  
5 interest or lien in any of the Debtors' assets, and specifically in accounts which might  
6 give it an interest in cash collateral.

7 On March 17, 2016, DPI signed a "Promissory Note and Security Agreement" for  
8 \$122,479 payable to Ibis Capital Group ("Ibis"). A copy of that note is attached as  
9 Exhibit 8 to the Horey Declaration. The present balance owing on the note is  
10 approximately \$78,644. Although titled "Promissory Note and Security Agreement", DPI  
11 did not, pursuant to the terms of the note, grant Ibis a security interest or lien in any  
12 property. A UCC records search did not reveal any filed financing statement listing Ibis  
13 as the secured party, however, the Debtors did locate a financing statement filed by  
14 "Corporation Service Company, as representative" which, in the collateral description  
15 only, mentions Ibis Capital Group, LLC, as the buyer, and DePaul Industries, Inc., as  
16 the seller, of "future sales proceeds" pursuant to a "merchant agreement" between the  
17 parties. A copy of that financing statement is attached as Exhibit 9 to the Horey  
18 Declaration. Horey Declaration, ¶ 11. That financing statement does not list "accounts"  
19 or any other category of collateral recognized by UCC Article 9. Furthermore,  
20 Corporation Service Company's failure to provide the name of the secured party it  
21 purportedly represents on the financing statement is likely fatal to the effectiveness of  
22 the financing statement. See *SEC v. Kaleta*, 2001 US Dist. LEXIS (SD Tex 2011) at  
23 \*33-36. As a result, Ibis does not have a valid, perfected security interest or lien in any  
24 of the Debtors' assets, and specifically in accounts which might give it an interest in  
25 cash collateral.

26 The Debtors believe RSF and Access are the only creditors that have or may

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1 have a claim in the Debtors' existing cash collateral (as defined in Section 363(a) of the  
2 Bankruptcy Code) and/or in the Debtors' accounts, payment intangibles, inventory, and  
3 other assets that will be used, collected, or sold by the Debtors postpetition in the  
4 ordinary course of business. Horey Declaration, ¶ 12.

5 The Debtors estimate that their accounts receivable have a value of  
6 approximately \$3,370,000. Attached as Exhibits 10 and 11 to the Horey Declaration are  
7 accounts receivable aging reports showing the outstanding receivables (the "Aging  
8 Reports"). As shown on the Aging Reports, 95.9% of the receivables are less than 60  
9 days old, and even those over 60 days are generally collectible. The older receivables,  
10 with the exception of approximately \$32,000, are owed by long-standing established  
11 customers, many of which are governmental entities, that historically have paid their  
12 invoices in full, albeit somewhat later than 60 days after issuance of the Debtors'  
13 invoices. Of the current list of receivables, the Debtors' believe no more than  
14 approximately \$80,000 will be uncollectible. Horey Declaration, ¶ 13.

15 The equipment securing the Access Obligations has an approximate value of  
16 between \$375,000 and \$400,000. This is based on a recent valuation of that equipment  
17 performed by Intech Enterprises. A copy of that valuation is attached to the Horey  
18 Declaration as Exhibit 12. The Debtors' inventory of \$600,000 at cost less 25% is  
19 valued at \$450,000. Horey Declaration, ¶ 14.

20 The Debtors' headquarters building is valued at approximately \$2,500,000,  
21 based on a June 18, 2015 appraisal performed by Mueller & Company, Inc. A copy of  
22 the appraisal report is attached to the Horey Declaration as Exhibit 13. Horey  
23 Declaration, ¶ 15. The first mortgage on the building is held by RSF and totals  
24 approximately \$1,872,188, leaving RSF with an equity cushion of \$627,812 in the  
25 building alone. That same equity cushion provides Access with \$627,812 of collateral  
26 value for its second position trust deed.

1           Altogether, RSF's interest in collateral has a value of approximately \$6,615,000,  
2 leaving RSF with an equity cushion of approximately \$4,472,812. Access' interest in  
3 collateral has a value of approximately \$4,472,812 (after subtracting the RSF mortgage  
4 debt), leaving Access with an equity cushion of approximately \$1,919,387 prior to the  
5 Debtors granting liens in the Receivables to the DIP Lender.

6 **V. DEBTOR'S NEED FOR DIP FINANCING**

7           Debtors' combined cash flow budget projects that Debtors will need  
8 approximately \$700,000-\$800,000 of postpetition financing in the next 13 weeks, which  
9 is anticipated to be funded from the DIP Facility. The projected borrowing requirements  
10 result primarily from delay in the collection of accounts receivable occasioned by  
11 transferring the Debtors' accounts receivable financing from Access to the DIP Lender,  
12 paying accrued pre-petition payroll and employee benefits, increased operational  
13 expenses to shut down certain manufacturing and packaging lines and move the  
14 remaining manufacturing and packaging operations out of the Hayden Island facility,  
15 and provide deposits and other one-time expenses associated with the Chapter 11  
16 filing. Debtors' projections are based on assumptions that Debtor's transition into  
17 Chapter 11 will be relatively smooth and that most suppliers will extend post-petition  
18 trade credit. Further, the projections do not contain a contingency for significantly  
19 decreased staffing and security division orders and revenues below those projected in  
20 the budget. Whether or not the revenue projections are met, Debtors must still maintain  
21 a sufficient workforce to service their customers and maintain the value of their  
22 businesses pending restructuring. The foregoing circumstances could result in  
23 significant short term cash flow shortages. As a result, Debtors need access to post-  
24 petition financing to maintain operations and to deal with any disruptions to their  
25 businesses.

26           Debtors require the DIP Facility and use of cash collateral to continue to operate

1 as going concerns, to pay employees and trade creditors, and to preserve the value of  
2 their assets. Absent such financing and use of cash collateral, Debtors' estates will be  
3 immediately and irreparably harmed. Debtors believe that consummation of the DIP  
4 Facility and use of cash collateral is in the best interest of Debtors' estates.

5 **VI. THE DIP FACILITY AND USE OF CASH COLLATERAL SHOULD BE**  
6 **APPROVED**

7 The DIP Facility is a result of extensive negotiations between Debtors and the  
8 DIP Lender. Prior to filing, Debtors spoke with Access regarding the potential for  
9 additional financing, but Access was unwilling to provide the level of financing the  
10 Debtors required. Debtors have been unable to secure any conventional financing and  
11 the only parties Debtors have spoken with that had any interest in providing DIP  
12 Financing were the DIP Lender and Portland Habilitation Centers ("PHC"). PHC has  
13 expressed interest in potentially combining certain operations with the Debtors as part  
14 of a long-term strategy that might benefit both the Debtors and PHC. Those  
15 negotiations are ongoing but are not far enough along for PHC to provide the financing  
16 needed at this time. No other party has offered to provide financing during the  
17 Chapter 11. Horey Declaration, ¶ 19.

18 After considering all aspects of the DIP Facility, Debtors determined in the  
19 exercise of their business judgment that it was in the best interest of Debtors and their  
20 estates, to obtain the DIP Facility from the DIP Lender. Doing so provides greater  
21 certainty to critical suppliers, employees and other interested parties, preserves the  
22 ability to pursue the strategic sales of assets or joint ventures with other non-profits  
23 such as PHC, and helps to ensure a smoother transition into Chapter 11.

24 Section 364(c) of the Bankruptcy Code provides that if a debtor-in-possession is  
25 unable to obtain unsecured credit allowable as an administrative expense under Section  
26 503(b)(1) of the Bankruptcy Code, the court may authorize a debtor-in-possession to

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1 obtain credit or incur debt that has priority over "ordinary" administrative expenses and,  
2 in particular "(a) with priority over any or all administrative expenses of the kind  
3 specified in Section 503(b) or 507(b) of this title, (b) secured by a lien on property of the  
4 estate that is not otherwise subject to a lien, (c) secured by a junior lien on property of  
5 the estate that is subject to a lien.", or (d) secured by a senior or equal lien on property  
6 of the estate that is subject to a lien if the debtor-in-possession is unable to obtain such  
7 credit otherwise, and the interests of the holders of existing liens on the property are  
8 adequately protected. 11 U.S.C. § 364(c)(l)-(3), and §364(d)(1).

9 Other than the requirement of notice and a hearing, the only statutory  
10 prerequisite under Sections 363(c) and 364(c) for use of cash collateral and obtaining  
11 credit on a secured and superpriority basis is that debtor-in-possession must be unable  
12 to obtain credit allowable as an "ordinary" administrative expense and the interests of  
13 entities in cash collateral is adequately protected. 11 U.S.C. §§ 363(c)(1) and (2),  
14 363(e), and 364(c)(2); *see also In re Garland Corp.*, 6 B.R. 456, 461 n.11 (B.A.P. 1st  
15 Cir. 1980) (secured credit under Section 364(c)(2) is authorized, after notice and a  
16 hearing, upon showing that unsecured credit cannot be obtained); *In re Ames Dep't*  
17 *Stores, Inc.*, 115 B.R. 34, 37-39 (Bankr. S.D.N.Y 1990) (debtor must show that it has  
18 made a reasonable effort to seek other sources of financing under Sections 364(a) and  
19 (b) of the Bankruptcy Code); *In re Mellor*, 734 F2d 1396, 1400 (9<sup>th</sup> Cir 1984) (holding  
20 that a 20% equity cushion constituted adequate protection to a secured creditor); *In re*  
21 *Boulders on the River*, 164 BR 99, 104 (9<sup>th</sup> Cir BAP 1994) (authorizing use of cash  
22 collateral where secured creditor was protected with an equity cushion of 11.45%).

23 Debtor is unable to obtain adequate unsecured credit allowable under  
24 Section 503(b)(1) of the Bankruptcy Code as an administrative expense. Debtor is also  
25 unable to obtain secured credit under Section 364(c) and (d) of the Bankruptcy Code on  
26 equal or more favorable terms than those set forth in the DIP Credit Agreement and

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1 Loan Documents. Under the circumstances here, those creditors whose liens are being  
2 subordinated to the proposed financing have either consented, or their interest will be  
3 adequately protected by the replacement liens being granted in post-petition assets and  
4 by the equity cushion that exists, and will continue to exist, in their existing collateral  
5 notwithstanding the senior liens being granted to the DIP Lender in the Receivables and  
6 Related Contracts.

7 RSF currently has an equity cushion of approximately 239% (\$6,615,000 to  
8 secure obligations of \$1,872,188). Access currently has an equity cushion of  
9 approximately 68% (\$1,919,387 to secure obligations of approximately \$2,823,425).  
10 Even if the full \$1,000,000 commitment is advanced under the DIP Facility, RSF will still  
11 have the benefit of an approximately \$3,472,812 equity cushion, or 123% of the debt,  
12 and Access will have the benefit of an approximately \$919,387 equity cushion, or 32.5%  
13 of the debt.

14 As stated above, equity cushions of between 11.45% and 20% have been  
15 approved as providing adequate protection for use of a lender's cash collateral. *In re*  
16 *Mellor*, 734 F2d at 1400; *In re Boulders on the River*, 164 BR at 104. See also *In re*  
17 *Satcon Tech Corp.*, 2012 Bankr. LEXIS 5812 (Bankr. D. Del 2012) (authorizing a \$4.9  
18 million priming lien when the secured creditors were owed approximately \$20 million  
19 secured by collateral with an equity cushion of approximately \$10.5 million); *In re Elmira*  
20 *Litho, Inc.*, 174 B.R. 892, 904 (Bankr. SD NY 1994) (an equity cushion provides  
21 adequate protection if it is sufficiently large to ensure that the secured creditor will be  
22 able to recover its entire debt from the security at the completion of the case). The  
23 terms of the DIP Credit Agreement and the Loan Documents are fair and reasonable,  
24 were negotiated by the parties at arm's length and in good faith and, in Debtors'  
25 business judgment, are the best available to Debtors under present market conditions  
26 and Debtors' financial circumstances.

1 Courts generally give broad deference to the business decisions of a debtor.  
2 See, e.g., *Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986);  
3 *Institutional Creditors of Cont'l Airlines, Inc. v. Cont'l Airlines, Inc. (In re Cont'l Air Lines,*  
4 *Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986); *Comm. of Equity Sec. Holders v. Lionel*  
5 *Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *Walter v. Sonwest Bank*  
6 *(In re Walter)*, 83 B.R. 14 (B.A.P. 9th Cir. 1987) (quoting *In re Cont'l*, 780 F.2d at 1226).  
7 In particular, a bankruptcy court should defer to a debtor's reasonable business  
8 judgment regarding the need for financing so long as the proposed financing agreement  
9 does not contain terms that leverage the bankruptcy process or benefit a third party  
10 rather than the bankruptcy estate. This was explained by the bankruptcy court in *In re*  
11 *Ames*:

12 [A] court's discretion under Section 364 is to be utilized on grounds that  
13 permit reasonable business judgment to be exercised so long as the  
14 financing agreement does not contain terms that leverage the bankruptcy  
15 process and powers or its purpose is not so much to benefit the estate as  
16 it is to benefit a party-in-interest.

17 115 B.R. at 40.

18 Here, Debtors' decision to obtain the DIP Facility from the DIP Lender represents  
19 a sound exercise of its business judgment. The DIP Facility provides Debtors with the  
20 funding they need to meet their operational needs and fund their restructuring costs.  
21 Without the financing, Debtors' going concern value and the value of their assets will be  
22 substantially and irreparably impaired.

## 23 VII. INTERIM APPROVAL SHOULD BE GRANTED

24 Bankruptcy Rules 4001(b) and (c) provide that a final hearing on a motion to use  
25 cash collateral or obtain credit, respectively, may not be commenced earlier than 14  
26 days after the service of such motion. Upon request, however, the Court is empowered  
to conduct a preliminary expedited hearing on the motion and authorize the use of cash



1 collateral and the obtaining of credit to the extent necessary to avoid immediate and  
2 irreparable harm to a debtor's estate pending a final hearing.

3 Pursuant to Bankruptcy Rules 4001(b) and (c), Debtors request that the Court  
4 conduct an expedited preliminary hearing on this Motion and (a) authorize Debtors to  
5 borrow under the DIP Facility and use cash collateral on an interim basis, pending entry  
6 of a final order, in order to avoid immediate and irreparable harm and prejudice to  
7 Debtors' estates and all parties-in-interest; and (b) schedule a hearing to consider entry  
8 of a final order.

9 Debtors have an urgent and immediate need for cash to preserve and maximize  
10 the value of their assets and to continue their mission. Currently, Debtors do not have  
11 sufficient unencumbered funds with which to do so. Absent authorization from the Court  
12 to obtain secured credit and use of cash collateral, as requested, on an interim basis  
13 pending a final hearing on the Motion, Debtors will be immediately and irreparably  
14 harmed.

15 **VIII. NOTICE**

16 Notice of this Motion has been given to, among other parties, (a) the DIP  
17 Lender's attorneys, (b) Access, SBTL, Ibis, and any other creditors having filed UCC-1  
18 financing statements, trust deeds, or other perfection documents regarding the Debtors'  
19 assets (c) the United States Trustee, and (d) creditors holding the 20 largest unsecured  
20 claims against each of the Debtors. Further notice is impractical under the  
21 circumstances. Debtors submit that the foregoing constitutes good and sufficient notice  
22 and that no other or further notice need be given in the circumstances.

23 //

24 //

25 //

26 //

1           WHEREFORE, Debtors request entry of an order granting the relief requested  
2 herein, setting a final hearing on the Motion, and such other and further relief as is  
3 appropriate.

4           DATED this 13<sup>th</sup> day of June, 2016.

5  
6                           SUSSMAN SHANK LLP

7   */s/ Thomas W. Stilley*

8           By \_\_\_\_\_

9                           Thomas W. Stilley, OSB No. 883167  
10                           Susan S. Ford, OSB No. 842203  
11                           Jeffrey C. Misley, OSB No. 850674  
12                           Proposed Attorneys for Debtors and Debtors-in-  
13                           Possession

14 \*23494-001\MOTION TO OBTAIN INTERIM CREDIT (02335998);5

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re	)	Case No. 16-32293-pcm11
	)	(Proposed Lead Case)
DePaul Industries, and	)	
DePaul Services, Inc.,	)	Case No. 16-32294-pcm11
	)	
Debtors.	)	(Joint Administration Pending)
	)	
	)	INTERIM ORDER AUTHORIZING
	)	DEBTORS TO OBTAIN SECURED
	)	CREDIT AND USE CASH COLLATERAL
	)	AND SCHEDULING A FINAL HEARING
	)	
	)	

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This matter came before the Court on June 15, 2016, on the motions filed by DePaul Industries [Doc \_\_ in Case No. 16-\_\_\_\_] and by DePaul Services, Inc. [Doc \_\_ in Case No. \_\_\_\_], as debtors-in-possession (each a “Debtor” and together, the “Debtors”), pursuant to sections 105, 361, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001(b), 4001(c), 6004 and 9014, and LBRs 2002-1, 4001-1, 6004-1 and 9013-1, requesting,

Page 1 of 22 INTERIM ORDER AUTHORIZING DEBTORS TO OBTAIN SECURED  
CREDIT AND USE CASH COLLATERAL AND SCHEDULING A FINAL HEARING

Exhibit A  
Page 1 of 94

among other relief, entry of this interim order (the “Interim DIP Order” or this “Order”):

(a) authorizing the Debtors to enter into a debtor-in-possession credit agreement, substantially in the form annexed hereto as Exhibit A (as amended, supplemented, or otherwise modified from time to time, the “DIP Credit Agreement” and collectively with all other related agreements, documents and instruments contemplated hereby or thereby, the “DIP Loan Documents”), with Associated Management Consultants, Inc. (together with its successors and assigns, the “DIP Lender”), under which the DIP Lender has agreed, on the terms and subject to the conditions set forth therein, to provide the Debtors a senior secured, superpriority revolving credit facility in the principal amount of \$1,000,000 (the “DIP Facility”);

(b) granting to the DIP Lender (i) superpriority administrative expense status pursuant to section 364(c)(1) of the Bankruptcy Code with respect to all obligations of the Debtors under the DIP Loan Documents (collectively, the “Obligations”), (ii) a first priority priming lien on the Debtors’ Receivables and Related Contracts (as such terms are defined in the DIP Credit Agreement), pursuant to section 364(d) of the Bankruptcy Code, (iii) a first priority lien on all the Debtors’ unencumbered tangible and intangible property other than Avoidance Actions (as such term is defined in the DIP Credit Agreement), pursuant to section 364(c)(2) of the Bankruptcy Code, and (iv) a junior lien on all of the Debtors’ tangible and intangible property that, on the Petition Date (as defined below), is subject to a lien other than Receivables and Related Contracts, pursuant to section 364(c)(3) of the Bankruptcy Code;

(c) approving, on an interim basis, the postpetition secured financing to be

made pursuant to the DIP Loan Documents and authorizing the Debtor to obtain loans thereunder on an interim basis in the aggregate principal amount not to exceed \$700,000;

(d) authorizing the Debtors to use the cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (“Cash Collateral”), of the DIP Lender, Access Business Finance L.L.C. (“Access”), RSF Social Investment Fund Inc. (“RSF”) and any other entity that has an interest in Cash Collateral, on an interim basis, for the purposes of funding expenditures consistent with the budget attached hereto as Exhibit B (as revised or updated from time to time, the “Budget”), subject to the variances permitted herein,;

(e) approving, pursuant to sections 361 and 364 of the Bankruptcy Code, the form and manner of adequate protection set forth herein to Access and RSF; and  
and

(f) scheduling a final hearing (the “Final Hearing”) to consider entry of a final order (the “Final DIP Order”) which, among other things, (i) approves, on a final basis, the Debtors’ use of Cash Collateral, (ii) approves, on a final basis, the DIP Loan Documents and authorizes the loans to be made under the DIP Loan Documents in the aggregate principal amount at any time outstanding not to exceed \$1,000,000 for the purposes of funding expenditures consistent with the Budget, subject to the variances permitted herein, and (iii) grants, on a final basis, adequate protection to Access and RSF.

Having considered the motions and the exhibits attached thereto, and based on the evidence presented at the interim hearing held pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) (the "Interim Hearing") and on the entire record herein, the Court hereby makes the following findings of fact and conclusions of law:

A. On June 10, 2016 (the "Petition Date"), the Debtors filed herein voluntary petitions under Chapter 11 of the Bankruptcy Code. Each Debtor is continuing in possession of its property and is operating and managing its business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334 and LR 2100-1. Consideration of this motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. § 1408.

C. Telephone, facsimile, electronic mail, or overnight courier notice of the Interim Hearing and the entry of this Interim DIP Order has been provided to, among others, (i) all entities that have filed UCC financing statements in which a Debtor is the named debtor therein, (ii) the Office of the United States Trustee, (iii) all entities that have requested notice in accordance with Bankruptcy Rule 2002, and (iv) each Debtor's twenty largest unsecured creditors set forth on the list filed pursuant to Bankruptcy Rule 1007(d). Under the exigent circumstances of these cases, the requisite notice of the motions and the relief requested therein and have been provided in accordance with Bankruptcy Rule 4001, which notice is sufficient for all purposes under the Bankruptcy

Code, including, without limitation, sections 102(1), 363 and 364 of the Bankruptcy Code, and no other notice need be provided for entry of this Interim DIP Order.

D. The relief requested by the motions is necessary to avoid immediate and irreparable harm to the Debtors' estates, and good, adequate and sufficient cause has been shown to justify the granting of the relief requested herein and the immediate entry of this Order.

E. The Debtors have an immediate need to use Cash Collateral and for additional working capital to fund their necessary and critical ordinary course expenses of maintaining and preserving their businesses and for the other purposes contemplated by the Budget. If the Debtors do not obtain authorization to use Cash Collateral and to borrow under the DIP Loan Documents, the Debtors will suffer immediate and irreparable harm.

F. The Debtors are unable to obtain unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense pursuant to sections 364(a) and 364(b) of the Bankruptcy Code in amounts necessary to enable them to pay payroll and other essential postpetition operating expenses and to satisfy other working capital and operational needs. Nor are the Debtors able to obtain postpetition financing under section 364(c) or section 364(d) on equal or more favorable terms than those set forth in the DIP Loan Documents based on the totality of circumstances. Financing on a postpetition basis in the amount to be provided under the DIP Facility is not available to the Debtors unless they grant (i) the DIP Facility Liens (as defined below) upon the DIP Facility Collateral (defined below), pursuant to sections

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364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, to secure the Obligations, and (ii) the Superpriority Claim (as defined below) in respect of the Obligations, pursuant to section 364(c)(1) of the Bankruptcy Code. The DIP Lender has indicated a willingness to make such loans and advances and provide such other financial accommodations pursuant to the terms and conditions of the DIP Loan Documents. After considering all alternatives, the Debtors determined, in the reasonable exercise of their prudent business judgment, that the DIP Facility provided under the DIP Loan Documents represents the best financing package available to them and is in the best interests of their estates.

G. Each of the creditors holding prepetition security interests in the property whose interests will be subordinated to the DIP Facility Liens either have consented to such subordination or their interests will be adequately protected.

H. The DIP Facility has been negotiated in good faith and at arms-length between the Debtors and the DIP Lender. As such, the DIP Facility will be deemed to have been made in good faith as required by, and within the meaning of, section 364(e) of the Bankruptcy Code, and the DIP Lender is entitled to the protections of section 364(e) of the Bankruptcy Code.

I. The terms of the DIP Facility and this Order are fair and reasonable and are supported by reasonably equivalent value and fair consideration.

J. The entry of this Order (i) is necessary to allow the Debtors to continue the operation of their businesses in an orderly manner, to pay their essential postpetition operating expenses, and to satisfy other working capital and operational needs, (ii)



constitutes a critical element to achieving a successful reorganization of the Debtors, and (iii) best serves the interests of the Debtors' respective estates.

K. Each of the foregoing findings by this Court will be deemed a finding of fact if and to the full extent that it makes and contains factual findings, and will be deemed a conclusion of law if and to the full extent that it makes and contains legal conclusions.

Based upon the foregoing findings and conclusions, and upon the record made by the Debtors before this Court at the Interim Hearing, and good and sufficient cause appearing therefor, it is hereby

ORDERED that:

1. The motions are granted on an interim basis, subject to the terms and conditions set forth in this Interim DIP Order. All objections, if any, to the motions are resolved hereby or, to the extent not resolved, are overruled.

2. The Debtors are authorized to use Cash Collateral on an interim basis for the purposes of funding expenditures in accordance with the Budget. The Debtors may make expenditures in excess of the amounts set forth in the Budget so long as the total variance does not exceed, on a cumulative basis, ten percent (10%) of the total budgeted expenses through the end of the applicable period; provided that if in any period, the Debtors' total budgeted expenses are less than predicted for that period by the Budget, the difference may be carried forward to subsequent periods.

3. The terms and provisions of the DIP Loan Documents are approved on an interim basis. The Debtors are hereby authorized to borrow from the DIP Lender, on the

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terms and subject to the conditions and limitations in availability set forth in the DIP Credit Documents and this Interim DIP Order, up to \$700,000 in the aggregate. Advances under the DIP Loan Documents shall be used by the Debtors to fund the expenses in accordance with the Budget subject to the variances thereto permitted by the DIP Credit Agreement.

4. To facilitate the Debtors' use of Cash Collateral contemplated by this Order and in furtherance of the conditions stated in the DIP Loan Documents, Access shall, and is hereby directed to, (a) forward to the DIP Lender, in accordance with the DIP Lender's written instructions, all mail and all cash, checks and other payment items that it receives from the Debtors' account debtors from and after the Petition Date, and (b) promptly instruct the United States Postal Service to forward all such mail to the DIP Lender.

5. The Debtors are authorized to execute and deliver the DIP Loan Documents, together with all other documents required to be executed or delivered in connection therewith. The Debtors are further authorized and directed (i) to comply with and perform, and are bound by, all of the terms and conditions contained in the DIP Loan Documents, and (ii) to repay all amounts borrowed under the DIP Facility, together with interest, fees, expenses and other amounts payable thereunder, to the DIP Lender in accordance with and subject to the terms and conditions set forth in the DIP Loan Documents. The Debtors and the DIP Lender may, from time to time, enter into non-material amendments, consents, waivers or modifications to the DIP Loan Documents, including amendments to the Budget, in each case without the need for further notice

and hearing or any order of this Court; provided, however, that no such amendment or modification shall increase the amount of the DIP Lender's lending commitment.

6. Without limiting the scope of the preceding paragraph, the Debtors are authorized and directed to pay all fees, costs and expenses incurred by the DIP Lender or provided for in the DIP Loan Documents, including the reasonable fees and expenses of the DIP Lender's professionals, in each case in accordance with and subject to the terms of the DIP Loan Documents. None of the fees and expenses of the DIP Lender's professionals payable under the terms of the DIP Loan Documents shall be subject to separate approval by this Court (but this Court shall resolve any dispute as to the reasonableness of any such fees and expenses), and no recipient of any such payment shall be required to file any interim or final fee application with respect thereto; provided, however, that the DIP Lender shall furnish summary documentation (which may be redacted in part) of the same to the United States trustee or any official committee of unsecured creditors appointed in these cases ("Committee) upon written request. For the avoidance of doubt, such fees include the application fee, the facility fee, the unused line fee, the minimum line fee, late fees and other miscellaneous fees described in the DIP Credit Agreement.

7. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the Debtors' Obligations shall constitute allowed administrative expense claims (the "Superpriority Claim") against the Debtors' estates with priority over any and all other administrative expenses, third-party claims under section 507(b) of the Bankruptcy Code for diminution in collateral value, and all other claims against the Debtors, or either of them, whether

now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, which Superpriority Claim shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof (excluding Avoidance Actions and the proceeds and recoveries therefrom).

8. As security for the Obligations, the DIP Lender shall have and is hereby granted (effective upon the entry of this Order and without the necessity of the execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements, or otherwise) valid and perfected liens (the "DIP Facility Liens") on all tangible and intangible property of the Debtors, or either of them, and of their respective estates, in each case whether now owned or existing or hereafter acquired or arising and wherever located, and on all proceeds, products, rents and profits thereof (collectively, as at any date of determination, the "DIP Facility Collateral"), with the following priorities:

(a) a first-priority, perfected priming lien on the Debtors' Receivables and Related Contracts (as such terms are defined in the DIP Credit Agreement), pursuant to section 364(d) of the Bankruptcy Code;

(b) a first-priority, perfected lien on all unencumbered tangible and intangible property of the Debtors and their respective estates other than Avoidance Actions, pursuant to section 364(c)(2) of the Bankruptcy Code; and

(c) a perfected junior lien on all other tangible and intangible property of the Debtors and their respective estates of any kind, pursuant to section 364(c)(3) of the Bankruptcy Code.

9. Except to the extent expressly set forth in this Interim DIP Order, the DIP Facility Liens granted under this Interim DIP Order and the DIP Loan Documents to the DIP Lender to secure the Obligations shall not be subordinated to or made pari passu with any other lien or security interest.

10. Neither Debtor nor any other party in interest in these cases may assert a claim against the DIP Lender under section 506(c) of the Bankruptcy Code for any costs or expenses incurred in connection with the preservation, protection, or enhancement of, or realization by the DIP Lender upon, any DIP Facility Collateral.

11. Without the prior written consent of the DIP Lender, no portion of the DIP Facility, the DIP Facility Collateral, or the DIP Lender's Cash Collateral shall be used (a) to investigate the DIP Lender, (b) to object to or contest in any manner, or raise any defense to the Superpriority Claim or the DIP Facility Liens granted to the DIP Lender under this Interim DIP Order and any Final DIP Order, (c) to request authorization to obtain a postpetition loan or other financial accommodation pursuant to sections 364(c) or (d) of the Bankruptcy Code on a non-consensual basis, or (d) to prevent, hinder, or otherwise delay the exercise or enforcement of, or seek to modify, any rights and remedies of the DIP Lender under the DIP Loan Documents, this Interim DIP Order or any Final DIP Order.

12. All DIP Facility Liens are binding and perfected automatically upon the entry of this Order. The DIP Lender will not be required to file or serve financing statements, mortgages, notices of lien, or similar instruments which otherwise may be required under federal or state law in any jurisdiction, or take any action (including taking possession) to validate and perfect the DIP Facility Liens, as applicable. If, however, the DIP Lender in its reasonable discretion shall determine to file any such financing statements, mortgages, agreements, notices of lien, or similar instruments, or to otherwise confirm perfection of such DIP Facility Liens, the Debtors, at their expense, are hereby authorized and directed to cooperate with and assist in such process to the extent provided in the DIP Loan Documents or in this Interim DIP Order, and all such documents shall be deemed to have been perfected at the time of and on the date of entry of this Interim DIP Order, with the priorities set forth herein, and shall be and hereby are deemed and adjudicated senior to any other postpetition filing by any other person or entity with respect to the same collateral. A certified copy of this Interim DIP Order may, in the discretion of the DIP Lender, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim DIP Order for filing and recording.

13. Any Event of Default under and as defined in the DIP Credit Agreement shall constitute an Event of Default under this Interim DIP Order.

14. Upon the occurrence of and during the continuance of an Event of Default, the DIP Lender will be entitled to exercise its rights and remedies and take all or any of

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the following actions without further relief from the automatic stay pursuant to section 362(a) of the Bankruptcy Code or any other applicable stay or injunction (which have been modified and vacated, as heretofore ordered, to the extent necessary to permit such exercise of rights and remedies and the taking of such actions) or further order of or application to this Court: (a) terminate its obligation to make further loans under the DIP Facility; (b) charge a default rate of interest as set forth in the DIP Credit Agreement; (c) terminate the Debtors' right to use Cash Collateral and require the Debtors to segregate and preserve all Cash Collateral for the benefit of the DIP Lender; (d) declare the principal of and all accrued interest, fees, and other liabilities constituting the Obligations to be immediately due and payable; and/or (e) take any other action or exercise any other right, power or remedy available to the DIP Lender under the DIP Loan Documents, this Interim DIP Order, and/or at law or in equity; provided, however, that the DIP Lender may not exercise its rights under clauses (c), (d) or (e) without first (i) giving the Debtors at least five business days' written notice, by facsimile, overnight courier or hand delivery, of any such Event of Default, which shall state therein the DIP Lender's proposed enforcement action (the "Enforcement Notice"), and (ii) filing a copy of such Enforcement Notice in these Chapter 11 cases. If the Debtors or any other party in interest challenges the DIP Lender's proposed enforcement action, any such party may request an expedited hearing before this Court (subject to the Court's availability) and the DIP Lender shall be permitted immediately to take any action described in clauses (a) and (b) as described above, but unless the Court orders otherwise, the DIP Lender shall not take the actions described in clause (c), (d) or (e) above pending any

such hearing. In the event the DIP Lender becomes entitled to exercise its rights and remedies regarding the DIP Facility Collateral upon an Event of Default or otherwise, the DIP Lender will not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any DIP Facility Collateral.

15. Subject to the provisions of paragraph 14 above, the Debtors waive demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, and all other notices or requirements of any kind.

16. So long as the DIP Lender complies with its obligations, if any, under applicable nonbankruptcy law and the Debtors remain in control of the DIP Facility Collateral, (a) the DIP Lender shall not, in any way or manner, be liable or responsible for (i) the safekeeping of the DIP Facility Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency, or other person, and (b) all risk of loss, damage or destruction of the DIP Facility Collateral shall be borne by the Debtors.

17. Without limiting the rights of access and information afforded to the DIP Lender under the DIP Loan Documents, the Debtors shall, from time to time upon reasonable notice during normal business hours, (i) afford the DIP Lender’s agents and advisors reasonable access to the Debtors’ premises and their records, (ii) cooperate, consult with and provide to such persons all such information reasonably requested by the DIP Lender, and (iii) make their employees and professionals available to the DIP



Lender and its agents, advisors and professionals to assist with such review and to answer questions about the Debtors' businesses and properties.

18. Not later than Wednesday of each week (or if such day is not a business day, the next succeeding business day), the Debtors shall deliver to the DIP Lender: (a) a variance report detailing (i) the cash expenditures for the prior two-week period ending Friday and a comparison of the actual performance for that period against the forecast for that period, (ii) the cumulative cash expenditures for all of the prior weeks since the Petition Date and as compared to the Budget for such weeks, and (iii) a narrative explanation of the variances between the actual weekly expenditures and the budgeted weekly expenditures; and (b) an updated Budget for the immediately following 13-week period (collectively, the "Weekly Reports"). The Weekly Reports shall be in form and substance reasonably satisfactory to the DIP Lender. Subject to the approval of the DIP Lender, which shall not be unreasonably withheld and which shall not require any further Bankruptcy Court approval, the updated Budget shall be deemed the Budget approved by this Order. Compliance with the Budget shall be measured on a weekly basis. The Debtor shall additionally provide to the DIP Lender (x) monthly financial statements, operating reports, and budget and operating plans for each such monthly period, and (y) on an as-requested basis, all such other reports and information respecting the Debtors' businesses, financial condition or prospects as the DIP Lender may from time to time reasonably request.

19. Access and RSF have not consented to the Debtors' use of Cash Collateral or to the Debtors' granting of priming liens on their Receivables and Related

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Contracts in connection therewith. The Debtors acknowledge that Access and RSF are entitled, pursuant to sections 361 and 364(d)(1) of the Bankruptcy Code, to adequate protection of their interests in the Debtors' Receivables and Related Contracts in exchange for the Debtors' use of Cash Collateral and the priming of their security interests in such property by the DIP Facility Liens granted to the DIP Lender under the DIP Loan Documents and this Interim DIP Order. As adequate protection, Access and RSF are granted the protections described in clauses (a) and (b) below:

(a) Pursuant to sections 361 and 364 of the Bankruptcy Code, as adequate protection of their interests in the Debtors' prepetition Receivables and Related Contracts against any diminution in the value of their interests in such property resulting from the Debtors' use of Cash Collateral or the grant of the DIP Facility Liens, Access and RSF are hereby granted a continuing valid, binding, enforceable and perfected postpetition lien on all of the DIP Facility Collateral (the "Adequate Protection Liens"). The Adequate Protection Liens shall be, in all respects, subject to and junior in priority to the DIP Lender's DIP Facility Liens on such property.

(b) As further adequate protection of their interests in the Debtors' prepetition Receivables and Related Contracts against any diminution in the value of their interests in such property resulting from the Debtors' use of Cash Collateral or the grant of the DIP Facility Liens, Access and RSF shall have administrative expense claims under section 503(b) of the Bankruptcy Code that will have superpriority as provided in section 507(b) of the Bankruptcy Code (the "Adequate Protection Claims").

The Adequate Protection Claims shall be junior in priority to the DIP Lender's Superpriority Claim.

(c) As further adequate protection of their interests in the Debtors' prepetition Receivables and Related Contracts against any diminution in the value of their interests in such property resulting from the Debtors' use of Cash Collateral or the grant of the DIP Facility Liens, the Debtors shall (i) pay to Access, monthly, an amount equal to all interest (at the non-default rate) that accrues on its secured claim from and after the Petition Date, and (ii) pay to RSF, monthly, an amount equal to the monthly payment required by the terms of its mortgage (excluding amounts payable thereunder as a result of the Debtors' commencement of these Chapter 11 cases).

20. Nothing in this Order shall (a) impair or limit any of Access's or RSF's rights and remedies in these cases or in any superseding case, or (b) prejudice their rights to seek modification of this Order for additional adequate protection. Further, nothing herein shall constitute a determination of the rights or interests of Access or RSF other than as specifically set forth in this Order. Without limiting the generality of the preceding sentence, nothing in this Order shall constitute a determination with respect to (i) the allowability or amount of any claim, (ii) the validity, enforceability, or perfection or nonperfection of their liens or security interests, or (iii) the extent or priority of their liens or security interests. In the event that Access's or RSF's prepetition liens or security interests are avoided or determined to be avoidable under any applicable law, then the Adequate Protection Liens and any superpriority treatment provided herein to such entity shall also be avoided.

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21. So long as no Event of Default shall have occurred and be continuing, Debtors shall be permitted to segregate weekly in a professional fees set aside account (the "Professional Fees Account") those amounts listed in the Budget for professional fees and expenses of the Debtors' and the Committee's attorneys, accountants and other professionals employed under section 327 of the Bankruptcy Code that may become allowed and payable under sections 330 and 331 of the Bankruptcy Code, with such funds to be used for payment of professional fees and expenses when allowed, but subject to the rights of any party in interest to object to any fees, expenses, reimbursement, or compensation of any such professionals. Anything herein to the contrary notwithstanding, the Professional Fees Account shall not be subject to the DIP Lender's Superpriority Claim or to the Adequate Protection Claims and shall be subject to the DIP Facility Liens and the Adequate Protection Liens only to extent there are funds left in the Professional Fees Account after payment of such allowed professional fees and expenses.

22. This Order is entered pursuant to section 364 of the Bankruptcy Code, granting the DIP Lender all protections afforded by section 364(e) of the Bankruptcy Code with respect to the Obligations and the DIP Facility Liens. If any or all of the provisions of this Order are hereafter reversed, modified, vacated or stayed, that action will not affect (i) the validity of any obligation, indebtedness or liability incurred hereunder by the Debtors to the DIP Lender, prior to the date of actual receipt by the DIP Lender of written notice of the effective date of any such stay, modification, reversal, or vacatur, or (ii) the validity or enforceability of any lien or priority authorized

or created under this Order or pursuant to the DIP Loan Documents. Notwithstanding any such stay, modification, reversal, or vacatur, all financing extended to the Debtors pursuant to this Interim DIP Order and all Obligations incurred by the Debtors pursuant hereto prior to the DIP Lender's actual receipt of such written notice shall be governed in all respects by the original provisions of this Order, and the DIP Lender shall be entitled to all the rights, remedies, privileges and benefits granted herein and in the DIP Loan Documents with respect to all such indebtedness, obligations or liability.

23. The provisions of this Interim DIP Order and any actions taken pursuant hereto shall survive entry of any order (a) confirming any plan of reorganization in these Chapter 11 cases, (b) converting one or both of these Chapter 11 cases to a Chapter 7 case, or (c) dismissing either or both of these Chapter 11 cases, and to the greatest extent permitted by applicable law, the terms and provisions of this Interim DIP Order, as well as the Superpriority Claim and the DIP Facility Liens granted hereunder or under the DIP Loan Documents, shall continue in full force and effect notwithstanding the entry of any such order, and such Superpriority Claim and DIP Facility Liens will maintain their priority as provided by this Interim DIP Order until all of the non-contingent Obligations are indefeasibly paid in full in cash and all contingent Obligations are cash collateralized as provided in the DIP Credit Agreement.

24. The DIP Lender is hereby relieved of the requirement to file proofs of claim in these Chapter 11 cases, or in any superseding Chapter 7 case, with respect to any Obligations.

25. Nothing in this Interim DIP Order, the DIP Loan Documents or any other documents related to these transactions shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Lender of any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with its restructuring efforts. The DIP Lender will not be deemed to be in control of the Debtors' operations or to be acting as a "responsible person" or "owner or operator" (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq. as amended, or any similar federal or state statute) with respect to the operations or management of the Debtors, or either of them.

26. The provisions of this Interim DIP Order shall be binding upon the Debtors, their respective estates, and all parties in interest in all circumstances. As such, pursuant to this Order, (i) the Debtors' Obligations to the DIP Lender will not be subject to counterclaim, setoff, subordination, recharacterization, defense, or avoidance in these Chapter 11 cases and in any subsequent Chapter 7 case, (ii) the DIP Facility Liens on the DIP Facility Collateral shall be deemed to be legal, valid, binding, perfected, and of the priority described in this Order, and not subject to recharacterization, subordination, avoidance, or reduction, and (iii) none of the Obligations nor any of the DIP Facility Liens on the DIP Facility Collateral shall be subject to any challenge by the Debtors or by any other party in interest in these Chapter 11 cases or in any subsequent Chapter 7 case (including any estate representative or trustee appointed or elected for a Debtor), and all parties in interest

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are hereby enjoined from taking, or seeking to take, any such action against the DIP Lender. Nothing in this Interim DIP Order vests or confers on any Committee or other party in interest standing or authority to pursue any cause of action belonging to a Debtor or its estate.

27. Without prejudice to the rights of any other party, the Debtors waive any and all claims and causes of action against the DIP Lender and each of its affiliates, and each of their respective former, current or future officers, directors, employees, representatives, attorneys, professionals and other agents, that, in each case, relates to or arises from the negotiation and entry into the DIP Loan Documents or this Interim DIP Order.

28. The terms of this Interim DIP Order shall be binding on any trustee or other fiduciary hereafter appointed in these Chapter 11 cases or in any subsequent Chapter 7 case as a legal representative of a Debtor or its estate.

29. To the extent any provision of this Interim DIP Order conflicts with any provision of the DIP Loan Documents, the provisions of this Interim DIP Order shall control.

30. The Debtors are authorized to take all actions necessary to effectuate the relief granted by this Order.

31. This Court retains jurisdiction with respect to all matters arising from or relating to the implementation of this Order.

32. This Order shall be effective immediately upon its entry, notwithstanding the possible application of Bankruptcy Rules 6004(h), 7062 or 9014.

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33. A Final Hearing shall be held on June \_\_, 2016, at \_\_\_\_\_ .m. Pacific time in Courtroom #\_\_ of the United States Bankruptcy Court, 1001 SW 5<sup>th</sup> Avenue, 7<sup>th</sup> Floor, Portland, Oregon, to consider the entry of a Final DIP Order.

<mailto:david.foraker@greenemarkley.com><mailto:sanford.landress@greenemarkley.com>

# # #

CERTIFICATION OF COMPLIANCE WITH LBR 9021-1(a)(2)(A)

I certify that I have complied with the requirements of LBR 9021-1(a)(2)(A).

PRESENTED BY:

SUSSMAN SHANK LLP

---

Thomas W. Stilley, OSB No. 883167  
tstilley@sussmanshank.com  
Proposed Attorneys for Debtors and Debtors-in-Possession

c: ECF Participants

\*23494-002\P INTERIM DIP ORDER (FINAL FORM 6/12/16) (02340019);1



DEBTOR-IN-POSSESSION CREDIT AGREEMENT

among

DEPAUL INDUSTRIES and DEPAUL SERVICES, INC.,  
as Borrowers,

and

ASSOCIATED MANAGEMENT CONSULTANTS, INC.,  
as Lender,

Dated June 10, 2016

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- B Form of Security Agreement
- C Form of Note
- D Initial Budget
- E Schedule of Miscellaneous Fees

## DEBTOR-IN-POSSESSION CREDIT AGREEMENT

This Debtor-in-Possession Credit Agreement (this "Agreement"), dated June 10, 2016, is among DePaul Industries, an Oregon public benefit corporation that is a debtor in possession in a case pending under Chapter 11 of the Bankruptcy Code ("DPI"), DePaul Services, Inc., an Oregon public benefit corporation that is a debtor in possession in a case pending under Chapter 11 of the Bankruptcy Code ("DSI" and together with DPI, the "Borrowers"), and Associated Management Consultants, Inc., a Washington corporation doing business under the assumed name AMCI Finance (together with its successors and assigns, the "Lender").

### PRELIMINARY STATEMENTS

A. On June 10, 2016 (the "Filing Date"), the Borrowers filed voluntary petitions with the Bankruptcy Court initiating the Case and have continued in the possession of their assets and in the management of their businesses pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. The Borrowers have an immediate need for additional working capital to fund their payroll and other essential expenses, and the Lender is willing, on the terms and subject to the conditions set forth herein, to provide the Borrowers a senior secured, super-priority revolving credit facility in the principal amount of One Million Dollars (\$1,000,000) to meet this need.

The parties hereto hereby agree as follows:

### SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement (including the recitals hereof), the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"Account" means the right of a Borrower to receive payment for goods sold or for services rendered that is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote ten percent or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agreement" is defined in the preamble hereto.

“Applicable Rate” means a variable rate per annum equal to 9.46 percent above the Prime Rate, adjusted daily.

“Assignee” is defined in Section 8.7.

“Avoidance Actions” means all claims and causes of action arising under sections 502(d), 544, 545, 547, 548, 549, 550 or 551 of the Bankruptcy Code.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy”, as now and hereafter in effect, or any successor statute.

“Bankruptcy Court” means the United States Bankruptcy Court for the District of Oregon.

“Board” means the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrower” means DPI or DSI, as debtor in possession, in each case as the context may require.

“Budget” means, initially, the consolidated cash flow projections for the Borrowers for the 13-week period ending September 9, 2016, attached hereto as Exhibit D, as such projections are updated from time to time pursuant to Section 5.4(a).

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banks in Oregon are authorized or required by law to close.

“Capital Lease Obligations” means, as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“Capital Stock” means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

“Case” means the administratively consolidated cases of the Borrowers pending under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

“Cash Collateral” means “cash collateral” as such term is defined in section 363(a) of the Bankruptcy Code.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means all of the “Collateral” referred to in the Security Documents that is to be subject to Liens in favor of the Lender.

“Commitment” means the obligation of the Lender to make Loans to the Borrowers, subject to the conditions stated in this Agreement, from time to time during the Commitment Period in an aggregate principal amount at any time outstanding up to One Million Dollars (\$1,000,000).

“Commitment Period” means the period from and including the Effective Date to the Maturity Date.

“Commonly Controlled Entity” means an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under Section 414 of the Code.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Creditors’ Committee” means any official committee appointed in the Case.

“Debtor Relief Laws” means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any of the events specified in Section 7.1, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Disposition” or “Dispose” means (a) the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by a Borrower (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any Capital Stock owned by a Borrower, or any notes or accounts receivable or any rights and claims associated therewith, and (b) the issuance of Capital Stock by any Subsidiary of a Borrower to any Person other than the Borrower.

“Dollars” means dollars in lawful currency of the United States.

“Effective Date” is defined in Section 4.1.

“Eligible Account” means an Account that has been due for less than thirty (30) days from the date of issuance of the invoice and is not otherwise an Ineligible Account.

“Environmental Laws” means any and all foreign, federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment, as now or may at any time hereafter be in effect.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“Event of Default” means any of the events specified in Section 7.1, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Filing Date” is defined in the recitals hereto.

“Final DIP Order” means the final order of the Bankruptcy Court authorizing the Borrowers to obtain the post-petition financing provided under this Agreement and to use Cash Collateral pursuant to sections 105, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d) and 364(e) of the Bankruptcy Code, which order shall be in form and substance satisfactory to the Lender in its sole discretion.

“Financial Statements” means the consolidated balance sheet of the Borrowers for the fiscal year ended June 28, 2015, and the related statements of income or operations and cash flows for such fiscal year, including the notes thereto.

“Financing Orders” means the Interim DIP Order and the Final DIP Order.

“First Day Orders” is defined in Section 4.1(f).

“GAAP” means generally accepted accounting principles in the United States, as in effect from time to time.

“Governmental Approval” means any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality,



regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“Guarantee Obligation” means, as to any Person (the “guaranteeing person”), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing person that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (A) for the purchase or payment of any such primary obligation or (B) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (ii) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person’s maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

“Indemnitee” is defined in Section 8.5.

“Indebtedness” means, as to any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) the liquidation value of all redeemable preferred Capital Stock of such Person,

(h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, and (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor.

"Ineligible Account" means an Account as to which any one of the following applies: (a) a portion of the goods giving rise to the Account have been returned, rejected, lost or damaged; (b) the account debtor disputes the Account, regardless of the validity of the dispute; (c) the account debtor is insolvent, has terminated or suspended its business operations, or is the subject of a proceeding under a Debtor Relief Law; (d) more than ten percent (10%) of the aggregate Accounts due from the account debtor are past due; (e) the Account is aged over sixty (60) days from the date of issuance of the invoice; (f) the Account is due from an employee or Affiliate of a Borrower; (g) the account debtor does not meet credit standards acceptable to the Lender; (h) the Account is not payable in Dollars or the account debtor is located outside the United States except those Accounts that are supported by foreign credit insurance satisfactory to and assigned to the Lender; (i) the Account is subject to any offset, counterclaim or other claim or defense on the part of the account debtor; or (j) the Account is otherwise unacceptable to the Lender in its reasonable judgment.

"Interest Payment Date" means (a) the last Business Day of each calendar month while any Loan is outstanding, and (b) the Maturity Date.

"Interim DIP Order" means the interim order of the Bankruptcy Court authorizing the Borrowers to obtain the post-petition financing provided under this Agreement and to use Cash Collateral pursuant to sections 105, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d) and 364(e) of the Bankruptcy Code in an aggregate principal amount not to exceed Seven Hundred Thousand Dollars (\$700,000), which order shall be in form and substance satisfactory to the Lender in its sole discretion.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Capital Stock or debt of another Person, (b) a loan, advance or capital contribution to, Guarantee Obligation or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor incurs debt of the type

referred to in clause (h) of the definition of “Indebtedness” set forth in this Section 1.1 in respect of such Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit of, or all of a substantial part of the business being conducted by, such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Lender” is defined in the preamble hereto.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by the Lender to the Borrowers pursuant to Section 2.1.

“Loan Documents” means this Agreement, the Security Documents, the Note and any addenda, amendment, waiver, supplement or other modification to any of the foregoing.

“Loan Notice” means a notice of a borrowing substantially in the form of Exhibit A.

“Material Adverse Effect” means any fact, effect, event, change, occurrence or circumstance that, by itself or together with other facts, effects, events, changes, occurrences or circumstances, has had or would be reasonably expected to have a material and adverse effect on (i) the operations, performance, prospects, business, assets, properties, or condition (financial or otherwise) of the Borrowers, (ii) the ability of the Borrowers to perform all of their Obligations, or (iii) the Lender’s ability to enforce the Loan Documents.

“Maturity Date” means the earlier of (a) the Scheduled Maturity Date, and (b) the effective date of a confirmed Plan of Reorganization.

“Minimum Balance” means Five Hundred Thousand Dollars (\$500,000).

“Multiemployer Plan” means a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Non-Excluded Taxes” is defined in Section 2.8(a).

“Note” means a promissory note in the form of Exhibit C, as it may be amended, supplemented or otherwise modified from time to time.

“Obligations” means the unpaid principal of and interest on (including interest accruing after the maturity of any Loan) the Loans, and all other obligations and liabilities of the Borrowers, or either of them, to the Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of or in connection with this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs or expenses (including all fees, charges and disbursements of counsel to the Lender that are required to be paid by the Borrowers pursuant hereto).

“Other Taxes” means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Title III of Pub. L. 107-56, signed into law October 26, 2001.

“PBGC” means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan” means any employee benefit plan that is covered by ERISA and in respect of which a Borrower or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Plan of Reorganization” means a plan of reorganization under Chapter 11 of the Bankruptcy Code filed in the Case.

“Prime Rate” means the rate of interest as published from time to time in the Wall Street Journal Western Edition.

“Quarterly Financial Statements” means the unaudited consolidated financial statements of the Borrowers for the fiscal quarters ended March 30, 2015, June 30, 2015, and September 30, 2015.

“Receivables” means all of Borrower’s Accounts, chattel paper (including tangible chattel paper and electronic chattel paper), instruments (including promissory notes), deposit accounts, letter-of-credit rights, general intangibles (including payment intangibles) and other obligations of any kind, whether or not arising out of or in connection with the sale or lease of goods or the rendering of

services and whether or not earned by performance, in each case whether now existing or hereafter acquired or arising.

“Related Contracts” means all rights in and to all supporting obligations and in and to all security agreements, mortgages, Liens, leases, letters of credit and other contracts securing or otherwise relating to the Receivables, in each case whether now existing or hereafter acquired or arising.

“Recovery Event” means any settlement of or payment to a Borrower with respect to any property or casualty insurance claim or any condemnation proceeding relating to any asset of such party.

“Regulation U” means Regulation U of the Board, as in effect from time to time.

“Reorganization” means, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty-day notice period is waived under subsections .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Reg. § 4043.

“Requirement of Law” means, as to any Person, the bylaws and certificate of incorporation or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer or assistant treasurer of the Borrowers or any of the other individuals designated in writing to the Lender by an existing Responsible Officer of the Borrower as an authorized signatory of any certificate or other document to be delivered hereunder.

“SEC” means the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

“Secured Obligations” has the meaning given to it in the Security Agreement.

“Scheduled Maturity Date” means January 31, 2017.

“Securities Act” means the Securities Act of 1933, as amended from time to time and any successor statute.

“Security Agreement” means the Debtor-In-Possession Security Agreement to be executed and delivered by the Borrowers, substantially in the form of Exhibit B.

“Security Documents” means the collective reference to the Security Agreement, the Financing Orders, and all other security documents hereafter delivered to the Lender granting a Lien on any property of a Borrower or any other Person to secure the Obligations.

“Single Employer Plan” means any Plan that is covered by Title IV of ERISA, but that is not a Multiemployer Plan.

“Subsidiary” means, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of a Borrower.

“Superpriority Claim” means a claim under section 364(c)(1) of the Bankruptcy Code against the Borrowers in the Case having priority over any claims of any Person, including any claims specified in or ordered pursuant to sections 105, 326, 330, 331, 503(b), 506(c), 507, 726, 1113, 1114 or any other provisions of the Bankruptcy Code.

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect from time to time in any applicable jurisdiction.

“United States” means the United States of America.

“UST” means the United States Trustee appointed to serve in the Case.

## 1.2 Other Definitional Provisions.

(a) Unless otherwise specified therein, all terms defined in this Agreement shall have the meanings set forth herein when such terms are used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”, (ii) the word “incur” shall be construed to mean

incur, create, issue, assume, become liable in respect of or suffer to exist (and the words “incurred” and “incurrence” shall have correlative meanings), (iii) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, and (iv) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## SECTION 2. AMOUNT AND TERMS OF COMMITMENT

2.1 Commitment. On the terms and subject to the conditions of this Agreement and the Financing Orders, the Lender agrees to make Loans to the Borrowers from time to time during the Commitment Period in an aggregate principal amount at any time outstanding not to exceed the Commitment. The initial Loan will be in an amount not to exceed Seven Hundred Thousand Dollars (\$700,000). Each subsequent Loan will be in an amount not less than One Hundred Thousand Dollars (\$100,000). The Borrowers may from time to time borrow, repay and re-borrow from the Lender under this Agreement; provided, however, that the total principal balance of the Loans outstanding shall at all times equal or exceed the Minimum Balance. The Lender’s Commitment shall terminate immediately and without further action on the date the Commitment Period expires.

2.2 Procedure for Borrowing. The Borrowers shall deliver to the Lender a fully executed Loan Notice, together with such additional documentation as the Lender may reasonably require, no later than 3:00 p.m. (Pacific time) on the Business Day immediately preceding the date of a proposed Loan, specifying the amount to be borrowed. If the Borrowers have satisfied the conditions to the making of a Loan, the Lender shall make the Loan available to Borrowers not later than 1:00 p.m. (Pacific time) on the requested date, either by wire transfer of same Business Day funds or by ACH the next Business Day, as the Borrowers may elect, in Dollars to the account that the Borrowers specify in the Loan Notice.

2.3 Repayment of the Loan. Each Loan of the Lender shall mature on the Maturity Date and shall be indefeasibly repaid in full in immediately available funds on the Maturity Date.

2.4 Mandatory Prepayments. If at any time the total amount of the Obligations exceeds the amount that is 150 percent of the Borrowers' Eligible Accounts, the Borrowers shall pay to the Lender, on demand the same Business Day, an amount equal to such excess.

2.5 Interest Rates and Payment Dates.

(a) Each Loan shall bear interest at a rate per annum equal to the Applicable Rate. All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed. For the purposes of calculating interest charges hereunder, all payments received by the Lender for the account of the Borrower shall be deemed received on the third Business Day after the date of actual receipt.

(b) (i) On or prior to the Maturity Date, if any Default or Event of Default shall occur, each Loan (whether or not overdue) shall bear interest at a rate per annum equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section, plus two percent (2.00%), and (ii) after the Maturity Date, each Loan shall bear interest at a rate per annum equal to the rate then applicable to the Loan, plus five percent (5.00%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is indefeasibly paid in full in immediately available funds.

(c) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (a) of this Section shall be payable from time to time on demand.

2.6 Fees. Lender shall be entitled to the following fees for the account of the Lender:

(a) Application Fee. Lender has received an application fee of \$10,000, which the Borrowers acknowledge has been fully earned by the Lender for processing the Borrowers' application for the Loans under this Agreement and is non-refundable.

(b) Facility Fee. Contemporaneously with the funding of the initial Loan hereunder, the Borrowers shall pay the Lender a facility fee of \$20,000, which the Borrowers acknowledge will be fully earned by the Lender and non-refundable.

(c) Unused Line Fee. On each Interest Payment Date, the Borrowers shall pay to the Lender an unused line fee in an amount equal to the product of (i) the difference, not to exceed the Minimum Balance amount, between One Million Dollars (\$1,000,000) and the average aggregate daily principal amount of all Loans outstanding during such calendar month, and (ii) the Prime Rate.



(d) Minimum Line Fee. On each Interest Payment Date, the Borrowers shall pay to the Lender a minimum line fee in an amount equal to the product of (i) the positive difference between the Minimum Balance and the average aggregate daily principal amount of all Loans outstanding during such calendar month, and (ii) the Applicable Rate.

(d) Late Fees. If any payment hereunder is not paid in full by the Borrowers when due, the Lender may collect from the Borrowers a late fee on such unpaid amount equal to five percent (5%) of such amount.

(e) Miscellaneous Fees. The Borrowers shall pay to the Lender from time to time upon demand the fees listed in Exhibit E.

2.7 Payments. All payments (including prepayments) to be made by the Borrowers hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made by noon, Pacific time, on the due date thereof to the Lender's designated bank account by wire transfer or ACH in Dollars and in immediately available funds. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. In the case of any extension of any payment of principal pursuant to the preceding sentence, interest thereon shall be payable at the then applicable rate during such extension.

2.8 Taxes.

(a) All payments made by the Borrowers under this Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding net income taxes and franchise taxes (imposed in lieu of net income taxes) imposed on the Lender as a result of a present or former connection between the Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document). If any such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings ("Non-Excluded Taxes") or Other Taxes are required to be withheld from any amounts payable to the Lender hereunder, the amounts so payable to the Lender shall be increased to the extent necessary to yield to the Lender (after payment of all Non-Excluded Taxes and Other Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement.

(b) In addition, the Borrowers shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by a Borrower, as promptly as possible thereafter the Borrower shall send to the Lender for its own account a certified copy of an original official receipt received by the Borrower showing payment thereof. If the Borrower fails to pay any Non-Excluded Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to the Lender the required receipts or other required documentary evidence, the Borrower shall indemnify the Lender for any incremental taxes, interest or penalties that may become payable by the Lender as a result of any such failure.

(d) This Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.9 Note. Upon request of the Lender, the Borrowers shall execute and deliver a Note to the Lender.

2.10 Priority and Liens.

(a) Superpriority Claims and Liens. Upon entry of the Interim DIP Order, the Obligations of the Borrowers under the Loan Documents shall at all times: (i) constitute allowed Superpriority Claims; (ii) be secured by a perfected first priority “priming” Lien on the Borrowers’ Receivables and Related Contracts, pursuant to section 364(d) of the Bankruptcy Code; (iii) be secured by a perfected first priority Lien on all tangible and intangible property of the Borrowers that is not subject to a Lien (other than Avoidance Actions and the proceeds therefrom), pursuant to section 364(c)(2) of the Bankruptcy Code; and (iv) be secured by a perfected junior Lien on all tangible and intangible property of the Borrowers that, on the Filing Date, is subject to a Lien other than the Borrower’s Receivables and Related Contracts, pursuant to section 364(c)(3) of the Bankruptcy Code.

(b) Real Property. Subject in all respects to the terms of the Financing Orders and the priorities set forth in Section 2.10(a), the Borrowers will grant to the Lender a security interest in, and mortgage on, all of the right, title and interest of the Borrowers in all real property owned or occupied by a Borrower (including leasehold interests), together in each case with all of the right, title and interest of the Borrowers in and to all buildings, improvements, and fixtures related thereto, all general intangibles relating thereto and all proceeds thereof. The Borrowers acknowledge that, pursuant to the Financing Orders, the Liens in favor of the Lender of such real property shall be perfected without the recordation of any instruments of mortgage or assignment. The Borrowers agree that upon the reasonable request of the Lender, the Borrowers shall promptly enter into separate trust deed instruments on owned real property in recordable form with respect to such properties on terms reasonably satisfactory to the Lender.

(c) Set-Off. Subject to Section 7 hereof, upon the occurrence and during the continuance of any Event of Default, the Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law and without further order of or application to the Bankruptcy Court, to set off and apply any and all indebtedness at any time owing by the Lender to or for the credit or the account of the Borrowers, or either of them, against any and all of the Obligations of the Borrowers, whether or not such Obligations are then due. The Lender shall notify the Borrowers of such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Lender under this Section are in addition to other rights and remedies that the Lender may have upon the occurrence and during the continuance of any Event of Default under the Loan Documents or the Financing Orders.

(d) Discharge. The Borrowers agree that (i) its obligations hereunder shall not be discharged by the entry of an order confirming a Plan of Reorganization (and the Borrowers, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waive any such discharge), and (ii) the Superpriority Claim granted to the Lender pursuant to the Financing Orders, and the Liens granted to the Lender pursuant to the Financing Orders and the Security Documents shall not be affected in any manner by the entry of an order confirming a Plan of Reorganization.

(e) Effect of Financings Orders. In the event and to the extent that the provisions of this Section shall conflict with what is set forth in the Financing Orders, the Financing Orders shall govern.

2.11 Security. Subject to the entry of the Interim DIP Order, as security for the prompt payment and performance of all Obligations of the Borrowers, the Borrowers hereby grant, in accordance with the provisions of the Security Documents applicable to the Borrowers and the Financing Orders, to the Lender a security interest in all of its right, title and interest in and to all of the Collateral. In the event and to the extent that the provisions of this Section shall conflict with what is set forth in the Financing Orders, the Financing Orders shall govern.

2.12 Lockbox Arrangement. For so long as this Agreement remains in effect and until the Obligations have been indefeasibly paid in full, all proceeds of Receivables shall be deposited into the Lender's designated bank account as provided herein. The Borrowers shall (i) cause Access Business Finance L.L.C. to forward directly to the Lender, in accordance with the Lender's written instructions, all mail and all cash, checks and other payment items that it receives from the Borrowers' account debtors from and after the Filing Date and to instruct the United States Postal Service to forward all such mail to the Lender, and (ii) direct all of its account debtors to remit payments on such Receivables to the Lender in accordance with the Lender's written instructions, which shall accompany the Borrowers' invoices to such account debtors. The Borrowers also shall transmit to the Lender, by email, copies of all invoices over Ten Thousand

Dollars (\$10,000) that are sent to account debtors on the same day and shall provide the Lender from time to time all transaction data relating to its Receivables in such a format and time schedule as the Lender may reasonably require. So long as an Event of Default has not occurred and is not continuing, the Lender shall remit to the Borrowers on each Business Day, by wire transfer or ACH to the Borrowers' designated DIP bank account, an amount equal to all cash proceeds of Receivables received by the Lender on the prior Business Day.

### SECTION 3. REPRESENTATIONS AND WARRANTIES

To induce the Lender to enter into this Agreement and to make each Loan, the Borrowers jointly and severally represent and warrant to the Lender that:

3.1 Existence; Compliance with Law. Each Borrower (a) is duly organized, validly existing and in good standing under the laws of the State of Oregon, (b) subject to the entry of the Financing Orders, has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct its business in a manner in which its business is now being conducted, (c) is in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, except to the extent the failure to be so qualified or in good standing could not reasonably be expected to have a Material Adverse Effect, and (d) is in compliance with all Requirements of Law except to the extent that the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

3.2 Power; Authorization; Enforceable Obligations. Subject to the entry of the Financing Orders, the Borrowers have the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and to obtain the Loans and other extensions of credit hereunder. Each Borrower has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and to authorize the Loans and other extensions of credit on the terms and conditions of this Agreement. Other than Bankruptcy Court approval, no Governmental Approval or consent or authorization of, filing with, notice to or other act by or in respect of, any other Person is required in connection with the Loans and other extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except the filings to perfect Liens granted under the Security Documents. Each Loan Document, when delivered to the Lender, will be duly executed and delivered on behalf of the Borrowers. This Agreement constitutes, and each other Loan Document upon execution and upon entry of the Interim DIP Order, will constitute, a legal, valid and binding obligation of the Borrowers, enforceable against the Borrowers in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by

general equitable principles (whether enforcement is sought by proceedings in equity or at law).

3.3 No Legal Bar. Subject to the entry of the Financing Orders, (i) the execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings of the Loans hereunder and the use of the proceeds thereof will not violate any Requirement of Law and will not result in, or require, the creation or imposition of any Lien on any of its properties or revenues pursuant to any Requirement of Law (other than the Liens created by the Security Documents), and (ii) no Requirement of Law applicable to the Borrowers could reasonably be expected to have a Material Adverse Effect.

3.4 Federal Regulations. No part of the proceeds of any Loan, and no other extensions of credit hereunder, will be used (a) for “buying” or “carrying” any “margin stock” within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect for any purpose that violates the provisions of the Regulations of the Board, or (b) for any purpose that violates the provisions of the Regulations of the Board. If requested by the Lender, the Borrowers will furnish to the Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1, as applicable, referred to in Regulation U.

3.5 Investment Company Act; Other Regulations. Neither Borrower is an “investment company,” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended. Neither Borrower is subject to regulation under any Requirement of Law that limits its ability to incur Indebtedness.

3.6 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document or any other document, certificate or statement furnished by or on behalf of the Borrowers to the Lender for use in connection with the transactions contemplated by this Agreement or the other Loan Documents contained, as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact known to the Borrowers that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Lender for use in connection with the transactions contemplated hereby and by the other Loan Documents.

3.7 Financial Statements; No Material Adverse Effect.

(a) The Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, (ii) fairly present in all material respects the

financial condition of the Borrowers as of the date thereof and its results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrowers as of the date thereof, including liabilities for taxes, material commitments and Indebtedness, to the extent required by GAAP to be shown therein.

(b) The Quarterly Financial Statements, and the related consolidated statements of income or operations and cash flows for such fiscal quarter, (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of the Borrowers as of the date thereof and its results of operations for the period covered thereby.

(c) Since the date of this Agreement, there has been no change, event, circumstance or development that, individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(d) Each Budget delivered to the Lender pursuant to Section 4.1(g) or Section 5.4(a) will (i) be prepared in good faith on the basis of the assumptions and qualifications stated therein, which assumptions and qualifications will be fair and reasonable in light of the conditions existing at the time of delivery of such Budget, and (ii) represent, at the time of delivery, the Borrowers' best estimate of their future financial needs (it being understood and agreed that projections, forecasts and budgets, whether delivered on, before or after the Effective Date and whether delivered pursuant to this Section or any other provision in this Agreement or the other Loan Documents, are not be viewed as facts and are by their nature speculative and uncertain, subject to significant contingencies and are not a guarantee of financial performance and that actual results may differ from the Budget and the projections therein and such variations may be material).

### 3.8 Ownership of Property; Liens; Investments.

(a) The Borrowers have good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of their businesses, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) The property (real and personal) of the Borrowers is not subject to any Liens, other than Liens permitted by Section 6.1.

3.9 Secured Superpriority Obligations. On and after the Effective Date, the Financing Orders and the Loan Documents will be sufficient to provide the

Superpriority Claims and Liens described in, and with the priority provided in, Section 2.10(a) of this Agreement and the Financing Orders (it being understood and agreed that in the event and to the extent that the provisions of Section 2.10(a) shall conflict with what is set forth in the Financing Orders, the Financing Orders shall govern).

3.10 Officers and Employees. The Borrowers' key officers and employees remain employed by, or otherwise associated with, the Borrowers and continue to perform their duties in the ordinary course of business.

#### SECTION 4. CONDITIONS PRECEDENT

4.1 Conditions to Effective Date. The obligations of the Lender to make Loans shall not become effective until the date (the "Effective Date") on which each of the following conditions is satisfied (or waived in accordance with Section 8.1).

(a) The Lender shall have received all of the following, each of which shall be originals or electronic copies (followed promptly by originals), each dated on or immediately prior to the Effective Date, each in form and substance satisfactory to the Lender and in such number of copies as may be requested by the Lender:

(i) a counterpart of this Agreement, duly executed by the Borrowers.

(ii) the Security Agreement, duly executed by the Borrowers, together with:

(A) acknowledgment copies or stamped receipt copies of proper financing statements, duly filed on or before the Effective Date under the Uniform Commercial Code of all jurisdictions that the Lender may reasonably deem necessary in order to perfect and protect the first priority liens and security interests created under the Security Agreement, covering the Collateral described in the Security Agreement, and

(B) copies of Uniform Commercial Code, tax and judgment lien searches with respect to the Borrower in each of the jurisdictions where a Borrower is located (within the meaning of Section 9-307 of the Oregon UCC or the corresponding code or statute of any other applicable jurisdiction), dated on or before the Effective Date, together with copies of all such filings disclosed by such search;

(iii) such duly executed certificates of resolutions or consents, incumbency certificates and/or other duly executed certificates of Responsible Officers of the Borrowers as the Lender 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 Agreement and the other Loan Documents;

(iv) such documents and duly executed certifications as the Lender may reasonably require to evidence that each Borrower is duly organized or formed, and that each Borrower is validly existing and in good standing in the State of Oregon;

(v) a certificate signed by a Responsible Officer of the Borrowers certifying (A) that the conditions specified in Sections 4.1(g) and 4.1(h) have been satisfied, and (B) that since the Filing Date there has been no change, event, circumstance or development that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect;

(vi) AMCI Representative Certifications signed by employees of the Borrowers, in each case who is acceptable to the Lender, who will act as primary management contacts for the Loans hereunder and will be exclusively charged with reporting the Lender and certifying the Borrowers' compliance with the covenants and conditions contained in this Agreement and in the other Loan Documents from time to time;

(vii) a Loan Notice; and

(viii) such other documents as the Lender or its counsel may reasonably require.

(b) The Borrowers shall have paid, or be permitted under the terms of the Interim DIP Order to pay, all fees and expenses of the Lender (including the reasonable and documented fees and expenses of Greene & Markley, P.C.) that accrue or are incurred on or before the Effective Date pursuant to Section 8.5.

(c) All third party consents and approvals necessary in connection with the transactions contemplated hereby shall have been obtained (without the imposition of any conditions that are not reasonably acceptable to the Lender), and no law or regulation shall be applicable in the reasonable judgment of the Lender that restrains, prevents or imposes materially adverse conditions upon the transactions contemplated hereby.

(d) A Financing Order shall have been entered by the Bankruptcy Court, shall be in full force and effect, and shall not have been amended, modified, stayed or reversed without the prior written consent of the Lender.

(e) All of the "first day orders" submitted by the Borrowers shall be in form and substance reasonably satisfactory to the Lender and, as entered, shall not



deviate from the form thereof approved by the Lender in any material respect which is adverse to the interests of the Lender (such orders hereinafter being referred to as “First Day Orders”; it being understood and agreed that notwithstanding anything herein to the contrary, the relief sought in all such First Day Orders approved by the Lender shall be permitted herein and the consent of the Lender to such relief therein shall be deemed to have been obtained).

(f) The Lender shall have received an initial Budget satisfactory to the Lender in its sole discretion.

(g) Each of the representations and warranties made by the Borrowers in or pursuant to the Loan Documents shall be true and correct on and as of such date as if made on and as of such date.

(h) No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

4.2 Each Credit Event. The obligation of the Lender to make a Loan is subject to the receipt of a proper request under Section 2.2 and the satisfaction of the following conditions:

(a) The representations and warranties of the Borrowers set forth in the Loan Documents shall be true and correct in all material respects on and as of the date of such Loan, except in the case of any representation or warranty that expressly relates to a prior date or dates, in which case such representation or warranty shall be true and correct on and as of such prior date or dates.

(b) No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

Each request by the Borrowers under Section 2.2 constitutes a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

## SECTION 5. AFFIRMATIVE COVENANTS

The Borrowers hereby agree that, so long as the Commitment remains in effect or any of the Obligations owing to the Lender hereunder or under the other Loan Documents remain unpaid, the Borrowers shall:

5.1 Further Assurances. At any time or from time to time upon the request of the Lender, at the expense of the Borrowers, promptly execute, acknowledge and deliver such additional instruments, certificates or documents, and do all such other acts and things as the Lender may reasonably request for purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, of providing for payment of the Obligations in

accordance with the terms of this Agreement, the Notes and the other Loan Documents, or of more fully perfecting or renewing the rights of the Lender with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds or products thereof or with respect to any other property or assets hereafter acquired by the Borrowers which may be deemed to be part of the Collateral) pursuant hereto or thereto. Upon the exercise by the Lender of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents that requires any consent, approval, recording, qualification or authorization of any Governmental Authority, the Borrowers shall execute and deliver, or shall cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Lender may be required to obtain from the Borrowers for such governmental consent, approval, recording, qualification or authorization (to the extent a Borrower is permitted by applicable law to do so). The Borrowers shall fully preserve or cause to be fully preserved the Liens granted by the Security Documents. The Borrowers acknowledge and agree that all costs and expenses reasonably expended or otherwise incurred pursuant to this Section 5.1 (including reasonable attorneys' fees and disbursements) by the Lender shall constitute Obligations and shall be paid by the Borrowers in accordance with the terms hereof.

5.2 Use of Proceeds. Use the proceeds of the Loan (a) for working capital and other general corporate purposes of the Borrowers not materially inconsistent with the disbursements contemplated in the Budget and to the extent not prohibited hereunder, (b) to pay all loan fees, interest, costs and expenses in accordance with the terms of this Agreement and the other Loan Documents, including the fees and expenses of the Lender associated with the negotiation, execution and delivery hereof and thereof, and (c) to make any other payments permitted to be made in the Financing Orders or in the First Day Orders, or by the Bankruptcy Court, in each case to the extent not prohibited by this Agreement or the Financing Orders. Borrowers are authorized to open and maintain a segregated bank account (the "Professional Fees Account") into which they may deposit as often as weekly the amounts set forth in the Budget for Chapter 11 professional fees and expenses of the Borrowers' and the Creditors' Committee's attorneys, accountants, and other professionals employed in the Case pursuant to section 327 of the Bankruptcy Code that may become allowed and payable under sections 105(a), 330 and 331 of the Bankruptcy Code, with such funds to be used for payment of professional fees and expenses when allowed, but subject to the rights of any party in interest to object to any fees, expenses, reimbursement, or compensation of any professionals. Payment of such allowed professional fees and expenses from the funds in the Professional Fees Account will have priority over the liens of the DIP Lender, and any other entities provided with a lien in such funds under the Financing Orders.

5.3 Preservation of Existence; Business, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the laws of the jurisdiction of its organization; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary in the

normal conduct of its business; (c) preserve or renew all of its material registered patents, trademarks, trade names and service marks; and (d) maintain and operate its business in substantially the manner in which it is presently conducted and operated.

5.4 Budgets; Financial Information; Default Notices. Deliver to the Lender, in form satisfactory to the Lender:

(a) not later than Wednesday of each week (or if such day is not a Business Day, the next succeeding Business Day), an updated Budget for the immediately following 13-week period, together with a flash report as to the actual performance of the prior two-week period ending Friday and a comparison of the actual performance for that period against the forecast for that period in the previous Budget, in each case with written explanations of material variances;

(b) promptly upon request by the Lender, such consolidated balance sheets of the Borrowers, related consolidated statements of income or operations, and cash flows, cash balance reports or any other financial reports as reasonably requested by the Lender; and

(c) promptly (and in any event within two Business Days) provide written notice to the Lender of the occurrence of any Default or Event of Default, describing the nature of such Default or Event of Default and any remedial actions being taken with respect thereto.

5.5 Insurance. The Borrowers shall provide evidence of insurance satisfactory to the Lender in its sole discretion, naming the Lender as additional insured and loss payee.

## SECTION 6. NEGATIVE COVENANTS

The Borrowers hereby agree that, so long as the Commitment remains in effect or any of the Obligations owing to the Lender hereunder or under any other Loan Document remain unpaid, the Borrowers shall not directly or indirectly:

6.1 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, or sign or file or suffer to exist under the Uniform Commercial Code of any jurisdiction a financing statement that names a Borrower as debtor, or sign or suffer to exist any security agreement authorizing any secured party thereunder to file such financing statement, or assign any accounts or other right to receive income, other than the following:

(a) Liens pursuant to any Loan Document and the Financing Orders;

(b) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate

reserves with respect thereto are maintained on the books of the Borrowers in accordance with GAAP;

(c) landlords', carriers', warehousemen's, mechanic's, materialmen's, repairmen's or other like Liens arising in the ordinary course of business which, to the extent not subject to section 362 of the Bankruptcy Code, are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the Borrowers;

(d) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(e) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred or arising in the ordinary course of business; and

(f) Liens existing on the Effective Date and securing Indebtedness permitted under Section 6.2(c).

6.2 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) unsecured Indebtedness outstanding on the date hereof and listed on Schedule 6.2(b); and

(c) secured Indebtedness outstanding on the date hereof and listed on Schedule 6.2(c).

6.3 Investments. Make or hold any Investments, except:

(a) Investments held by the Borrowers in the form of cash or cash equivalents;

(b) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss; and

(c) Investments existing on the date hereof.

6.4 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person.

6.5 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except for the following kinds of Dispositions if made for fair market value:

(a) Dispositions of obsolete or worn out property or property no longer used or useful in the business of the Borrowers, whether now or hereafter owned or leased, in the ordinary course of business of the Borrowers;

(b) Dispositions of inventory in the ordinary course of business;

(c) the settlement or write-off of accounts receivable or sale of overdue accounts receivable for collection in the ordinary course of business of the Borrowers consistent with past practice; and

(d) exchange or other disposition of cash and cash equivalents in the ordinary course of business.

6.6 Change in Nature of Business. Engage in any line of business different from those lines of business conducted by the Borrowers on the date hereof.

6.7 Transactions With Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrowers, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Borrowers as would be obtainable by the Borrowers at the time in a comparable arm's length transaction with a Person other than an Affiliate; provided that the foregoing restriction shall not apply to transactions, arrangements, fees reimbursements and indemnities specifically and expressly permitted between or among such parties under this Agreement.

6.8 Accounting Changes. Make any change in (i) accounting policies or reporting practices in a manner that could materially affect the results of computation of any financial ratio or data for a given reporting period, except (x) as required by generally accepted accounting principles, (y) as required for compliance with the Sarbanes-Oxley Act, or (z) as pre-approved by the Lender, or (ii) the Borrowers' fiscal year.

6.9 Partnerships, Etc. Become a general partner in any general or limited partnership or joint venture.

6.10 Speculative Transactions. Engage in any transaction involving any interest rate protection agreement, foreign currency exchange agreement,

commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement (including caps and collars with respect to interest rates, currency exchange rates or commodity prices) or futures contracts for speculative purposes or any similar speculative transactions, which are, in any case, inconsistent with prior practice and not otherwise made in the ordinary course of business of the Borrowers.

6.11 Formation of Subsidiaries. Organize or invest in any new Subsidiary.

## SECTION 7. EVENTS OF DEFAULT

7.1 Events of Default. If any of the following events shall occur and be continuing:

(a) the Borrowers fail to pay any principal of any Loan when due in accordance with the terms hereof; or the Borrowers fail to pay any interest on any Loan or any other amount payable hereunder or under any other Loan Document, within two days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by the Borrowers herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) the Borrowers fail to perform or observe any term, covenant or agreement contained in any of Sections 2.10 or 2.11, Section 5 or Section 6; or

(d) the Borrowers default in the observance or performance of any provision contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default continues unremedied for a period of five (5) Business Days after written notice to the Borrowers from the Lender; or

(e) the Borrowers become unable or admit in writing their inability, or fail generally, to pay their debts that are incurred after the Filing Date as they become due; or

(f) (i) the Borrowers engage in any “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any “accumulated funding deficiency” (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan or any Lien in favor of the PBGC or a Plan shall arise on the assets of the Borrowers or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to,

or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Lender, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) the Borrowers or any Commonly Controlled Entity shall, or in the reasonable opinion of the Lender is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or (vi) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, could, in the sole judgment of the Lender, reasonably be expected to have a Material Adverse Effect; or

(g) any of the Security Documents shall cease, for any reason, to be in full force and effect, or the Borrowers shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby; or

(h) an order (which has not been stayed) with respect to the Case shall be entered by the Bankruptcy Court appointing, or the Borrowers shall file an application for an order with respect to the Case seeking the appointment of, (i) a trustee under section 1104 of the Bankruptcy Code, or (ii) an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code; or

(i) an order shall be entered by the Bankruptcy Court converting the Case to a Chapter 7 case or the Borrowers shall file a motion or not oppose a motion seeking such relief, unless such motion is consented to by the Lender; or

(j) the Bankruptcy Court shall enter an order or orders granting relief from the automatic stay under section 362 of the Bankruptcy Code to the holder or holders of any security interest to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any Collateral of the Borrowers other than Collateral that is of immaterial value; or

(k) (i) the Final DIP Order shall not have been entered by the date that is 21 days after the Effective Date, (ii) a Financing Order shall be vacated, stayed, reversed, modified or amended in any respect, (iii) a Financing Order shall cease to create a valid and perfected Lien or to be in full force and effect, or (iv) the Borrowers fail to comply with a Financing Order; or

(l) the Borrowers shall make any payment on account of any prepetition Indebtedness or trade payable (excluding payments effected by a setoff of obligations as permitted by section 553 of the Bankruptcy Code) without

the express prior written consent of the Lender and the approval of the Bankruptcy Court; or

(m) the Borrowers shall file a motion in the Case (i) to use Cash Collateral of the Lender under section 363(c) of the Bankruptcy Code without the express prior written consent of the Lender (it being understood and agreed that the Lender consents to the proposed use of Cash Collateral on the terms and conditions set forth in the Financing Orders), (ii) to recover from any portions of the Collateral any costs or expenses of preserving or disposing of such Collateral under section 506(c) of the Bankruptcy Code, or (iii) to take any other action or actions materially adverse to the Lender or its rights and remedies hereunder or under any of the other Loan Documents or the Lender's interest (as lender under the Loan Documents) in any of the Collateral; or

(n) an order shall be entered by the Bankruptcy Court dismissing the Case that does not contain a provision for termination of the Commitment and payment in full in cash of all Obligations of the Borrowers hereunder and under the other Loan Documents upon entry thereof; or

(o) the Borrowers' total expenses and disbursements for any period are more than ten percent greater than the total expenses and disbursements for that period predicted by the Budget, provided that if in any period, the Borrowers' total expenses and disbursements are less than predicted for that period by the Budget, the difference may be carried forward to subsequent periods; or

(p) the Borrowers' exclusive right to propose a plan of reorganization is terminated or expires; or

(q) a Plan of Reorganization is not confirmed and does not become effective by the Scheduled Maturity Date;

then, Lender may, after giving five Business Days' prior written notice to the Borrowers (with a copy thereof filed in the Case), (i) terminate the Commitment, whereupon the Lender's obligation to make further Loans will terminate, (ii) declare all Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable, and (iii) exercise any or all rights, powers and remedies available to the Lender under the Loan Documents and/or at law or in equity. Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrowers. In the event and to the extent that the provisions of this Section conflict with what is set forth in the Financing Orders, the Financing Orders shall govern.

7.2 Application of Proceeds. If an Event of Default shall have occurred and be continuing, the Lender may at any time apply all payments received by the Lender under the Loan Documents, whether from the Borrowers or otherwise,



and all or any part of proceeds constituting Collateral, in payment of the Obligations in the following order:

(a) first, to the payment of all costs and expenses of such sale, collection or other realization, all other expenses, liabilities and advances made or incurred by the Lender in connection therewith, and all amounts for which the Lender is entitled to compensation, reimbursement and indemnification under any Loan Document and all advances made by the Lender thereunder for the account of the Borrowers, and to the payment of all costs and expenses paid or incurred by the Lender in connection with the Loan Documents, all in accordance with Section 8.5 and the other terms of this Agreement and the Loan Documents;

(b) second, thereafter, to the payment of all other Obligations;  
and

(c) third, thereafter, to the payment to or upon the order of the Borrowers or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

## SECTION 8. MISCELLANEOUS

8.1 Amendments and Waivers. No amendment, supplement, modification or waiver of any of the provisions of this Agreement or any other Loan Document shall be deemed to be made unless the same shall be in writing signed on behalf of the Borrowers and the Lender and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. Any such waiver and any such amendment, supplement or modification shall be binding upon the Borrowers, the Lender and all future holders of the Loans. In the case of any waiver, each of the Borrowers and the Lender shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

8.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of facsimile notice, when received, addressed as follows, or to such other address as may be hereafter notified by the respective parties hereto:

Borrowers: DePaul Industries  
4950 NE Martin Luther King Blvd.  
Portland, OR 97211

Attention: Travis Pearson  
Facsimile: (503) 282-1625  
Telephone: (503) 288-6242

Lender: AMCI Finance  
PO Box 8205  
Spokane, WA 99203-0205  
Attention: Bill Schweiger  
Facsimile: (509)535-0645  
Telephone: (509) 534-6994, ext. 1

provided that any notice, request or demand to or upon the Lender shall not be effective until received. Notices and other communications to the Lender hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Lender in writing.

8.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

8.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loan and other extensions of credit hereunder.

8.5 Payment of Expenses and Taxes. The Borrowers agree (a) to pay or reimburse the Lender for all its documented out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the fees and disbursements of counsel to the Lender and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrowers from time to time as the Lender shall deem appropriate, (b) to pay or reimburse the Lender for all its documented costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the fees and disbursements of counsel to the Lender, (c) to pay, indemnify, and hold the Lender harmless from and against any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other taxes, if any, that may

be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (d) to pay, indemnify, and hold the Lender and the officers, directors, employees, advisors and other agents of the Lender (each, an “Indemnitee”) harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents (regardless of whether any Indemnitee is a party hereto and regardless of whether any such matter is initiated by a third party, the Borrower or any other Person), including any of the foregoing relating to the use of proceeds of the Loan or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Borrowers or any of their properties and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against the Borrowers under any Loan Document (all the foregoing in this clause (d), collectively, the “Indemnified Liabilities”); provided, however, that the Borrowers shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrowers further agree not to assert, and hereby waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 8.5 shall be payable not later than five (5) Business Days after written demand therefor. Statements payable by the Borrowers pursuant to this Section 8.5 shall be submitted to the address of the Borrowers set forth in Section 8.2, or to such other Person or address as may be hereafter designated by the Borrowers in a written notice to the Lender. This Section 8.5 shall survive repayment of the Loan and all other amounts payable hereunder.

8.6 Payments Set Aside. To the extent that any payment by or on behalf of the Borrowers is made to the Lender, or the Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

8.7 Successors and Assigns; Assignments. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrowers may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender (and any attempted assignment or transfer by the Borrowers without such consent shall be null and void) and (ii) the Lender may assign to one or more assignees (each, an “Assignee”) all or a portion of its rights and obligations under this Agreement with notice to the Borrowers.

8.8 Set-Off. In addition to any rights and remedies of the Lender provided by law, the Lender shall have the right, without prior notice to the Borrowers, any such notice being expressly waived by the Borrowers to the extent permitted by applicable law, upon any amount becoming due and payable by the Borrowers hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by the Lender to or for the credit or the account of the Borrowers, as the case may be. The Lender agrees promptly to notify the Borrowers after any such setoff and application made by the Lender, provided that the failure to give such notice shall not affect the validity of such setoff and application.

8.9 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission or other electronic imaging means shall be effective as delivery of a manually executed counterpart hereof.

8.10 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.11 Integration. This Agreement and the other Loan Documents represent the entire agreement of the Borrowers and the Lender with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

8.12 Governing Law. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Oregon without regard to choice of law rules and, to the extent applicable, the Bankruptcy Code.

8.13 Submission To Jurisdiction; Waivers.

(a) SUBMISSION TO JURISDICTION. EACH BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE BANKRUPTCY COURT, OR IN THE EVENT THAT THE BANKRUPTCY COURT DOES NOT HAVE JURISDICTION OVER ANY MATTER OR IF IT HAS JURISDICTION BUT DOES NOT EXERCISE SUCH JURISDICTION FOR ANY REASON, THEN TO THE NONEXCLUSIVE JURISDICTION OF ANY OREGON STATE COURT OR FEDERAL COURT OF THE UNITED STATES OF AMERICA SITTING IN PORTLAND, OREGON, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS TO WHICH IT IS A PARTY, 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 THE BANKRUPTCY COURT, ANY SUCH OREGON STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT 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. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT THE LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS IN THE COURTS OF ANY JURISDICTION.

(b) WAIVER OF VENUE. EACH BORROWER HEREBY 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 OR ANY OF THE OTHER LOAN DOCUMENTS TO WHICH IT IS A PARTY IN ANY OREGON STATE OR FEDERAL COURT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(c) SERVICE OF PROCESS. EACH BORROWER IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 8.2. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF THE LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

8.14 Acknowledgements. The Borrowers hereby acknowledge that:

(a) they have been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) the Lender does not have a fiduciary relationship with or duty to the Borrowers arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Lender, on one hand, and the Borrowers on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Borrowers and the Lender.

8.15 Releases of Liens. After the Commitment Period has expired and upon fulfillment of the following conditions precedent, the Lender will, at the Borrowers' expense, terminate the Liens on the Collateral created by the Security Documents: (a) all of the Loans and the other Obligations owing to the Lender under the Loan Documents shall have been indefeasibly paid in full in immediately available funds; (b) the Borrowers shall have executed and delivered to the Lender a general release in form and substance acceptable to the Lender; and (c) either (i) a period of thirty (30) days from the date of Borrowers' payment in full of the Obligations shall have elapsed, or (ii) the Borrowers shall have deposited with the Lender such amount as the Lender may reasonably determine, which shall be held by the Lender for such thirty (30) day period as collateral security for, and as a non-interest bearing reserve from which the Lender may obtain payment of, all Obligations that arise by reason of any payment previously credited against the Obligations being reversed by the Lender's depository bank or that otherwise become payable by Borrowers under the Loan Documents.

8.16 WAIVERS OF JURY TRIAL. EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

8.17 Regulatory. The Borrowers will provide, to the extent commercially reasonable or required by any Requirement of Law, such information and take such actions as are reasonably requested by the Lender to assist the Lender in maintaining compliance with applicable law.

8.18 Patriot Act Notice. The Lender hereby notifies the Borrowers that pursuant to the Patriot Act, the Lender may be required to obtain, verify and record information that identifies each Borrower, including its legal name, address, tax ID number and other information that will allow the Lender to identify it in accordance with the Patriot Act. The Lender may also require

information regarding the Borrowers' management, such as legal name, address, social security number and date of birth.

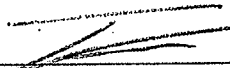
8.19 Joint and Several Liability of the Borrowers. The Borrowers' obligations under this Agreement and under the other Loan Documents shall be joint and several.

8.20 Agreements in Writing. UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY THE LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION, AND BE SIGNED BY THE LENDER TO BE ENFORCEABLE.


*(Signature pages follow.)*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the date first above written.

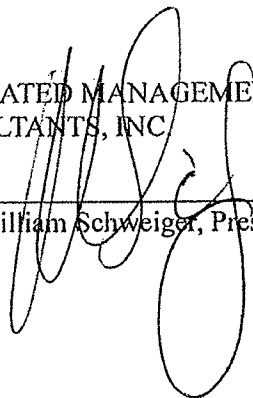
DEPAUL INDUSTRIES

By:   
Travis Pearson, President

DEPAUL SERVICES, INC.

By:   
Travis Pearson, President

ASSOCIATED MANAGEMENT  
CONSULTANTS, INC

By:   
R. William Schweiger, President



**SCHEDULE 6.2(b)**  
**Existing Unsecured Debt**

<b>Unsecured Creditor</b>	<b>Amount</b>		
943 Packaging	300.00	OLSHEN BOTTLE SUPPLY	1,315.69
A-1 Scale Sales & Service	950.12	Oregon Tilth	362.06
ABF Freight System Inc	1,933.92	Orthodox Union	3,610.00
ACCURATE BOX COMPANY, INC	28,833.19	Pacific Hazelnut Farms	675.00
AIB International	6,656.89	PAK-SEL, Inc.	411.91
Air Power Int'l Freight (CHI) Inc	2,100.00	PREMIER PACKAGING	34,161.26
Airgas	872.05	PROPAC MARKETING, INC	19,019.77
AMZ International Shipping Co., Inc	75.00	Recology	12,876.38
ATCO NORTH	7,721.22	ROCKTENN RECYCLING	182.17
Badger Electric Inc	9,727.36	Rogers Machinery Company, Inc	12,116.00
BALL METAL FOOD CONTAINER CORP	11,071.02	Ross Printing Company	6,423.60
Benchmade	182,673.75	SensoryEffects Cereal Systems	112,960.05
Biologic Resources LLC	122.00	Shanghai Molifood	1,564.00
Boyd's Coffee	12,000.00	SHIPPERS WAREHOUSE	21,706.64
Carton Service, INC	1,787.10	Sierra Springs	2,453.50
Charlie Zupsic	21,695.00	SONOCO c/o AMS Collections	81,840.06
Chep Recycled Pallet Solutions LLC	3,044.50	SPECIALTY COMMODITIES INC	11,485.00
CHEP USA	6,426.16	staples	120.00
Cloud Packaging	743.46	Starpak	68,689.02
Columbia Financial Services, Inc	1,742.22	SunBlest	639.25
Convoy	2,624.05	TD Sourcing	(9,820.00)
CRAFTSMAN LABEL	5,185.01	Tech Packaging Inc.	5,744.54
Data Management Inc	202.26	TQL	4,973.62
Denco Sales Company	112.63	Tyco Integrated Security LLC	1,191.86
Diagraph	8,557.00	U-LINE	6,076.50
Diversified Foods	287.52	UTi	6,255.66
DSM Nutritional Products	1,710.50	Van Drunen Farms	99,536.07
Fastenal	2,617.11	Videojet	11,743.22
FL VANCOUVER	174.00	Wesmar Company, Inc. c/o Chris Jackson	834.05
Formost Fuji Corporation	632.30	Westmark Industries Inc	2,988.80
Gerber Legendary Blades	153,939.81	WestRock	400.00
Image Pressworks	49,960.00	WORLD TRADING EXPORT	8,487.50
INDOOR BILLBOARD	1,527.63	Spee-Dee Packaging Machinery, Inc.	106.29
International Foodsource	5,416.56	NW Lift Truck Service, Inc.	17,907.69
INTERNATIONAL PAPER	6,622.22	A1 Backflow Services, LLP	120.00
KFK Seasonings	33,332.80	A-1 Automotive	214.44
King Speed Oregon LLC	13,428.64	ACCSES - Idaho	8,294.32
Labe Orloff	1,963.40	ADVANTIX	11,480.64
Landsberg Orora	29,541.47	AKT (CPA's & Bus. Consultants)	39,746.00
Loma Systems	571.80	Ally Financial	684.99
Mariani	2,100.00	American Medical Response	3,200.00
MEDURI FARMS, INC.	9,122.65	American Security Alarms, Inc.	543.20
Metro Overhead Door	2,828.00	Anctil Heating & Cooling	554.45
Michael Webster	375.00	AterWynne LLP	16,852.00
MSI FLEXIBLE PACKAGING INC	222,177.50	B Lab	1,500.00
Multifab, Inc	73,874.21	Babiestar Inc	40,000.00
Multiprojects Management Services	2,737.31	Berkley Assigned Risk Services	11,938.00
Northwest Handling	1,973.38	BGE - Elec Serv Glen Burnie	263.31
OK International Group	3,029.35	Bill Rhyne	410.00
		BILLY RHYNE	947.00

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Filed 06/13/16

**SCHEDULE 6.2(b)**  
**Existing Unsecured Debt**

Bullivant-Houser-Bailey Attorneys at Law	9,591.37	Galls/Quartermaster	19,768.85
Cardmember Service	30,692.07	Garten Services, Inc.	376.72
Century Link (Arizona)	211.11	GE Capital	3,614.73
Century Link (Seattle)	1,312.09	Graebel/Oregon Movers LLC	2,700.00
Charlie Zupsic	386.54	Grainger	757.77
Chesapeake Employers (MD workers comp)	18,187.00	GrayBox	10,107.86
Chris Ensley	109.62	Great America Financial Svcs	6,498.44
Chris Johnson	587.76	Greater Hermiston Chamber of Commerce	200.00
CICS Employment Services, Inc.	10,393.00	Gruetter Sanitary Service, Inc.	292.51
Cintas	737.27	Harry Hoots	243.15
City of Eugene / Lease	1,100.00	Haymore Plaza Associates( Arizona rent)	525.00
City of Portland Fire Marshal	350.00	Hillyer's	423.48
City of Portland (Bureau of Transport)	0.35	Idaho Springs Water Co	112.07
COASTAL FARM AND RANCH	114.37	Indoor Billboard	44,435.19
Columbia Distributing	993.36	Integra Telecom	6,982.99
Columbia River Community Health Services	217.00	Intelifi, Inc	4,704.55
Comcast	1,468.91	International CPR Institute, Inc.	544.00
Comcast Cable - Pennsylvania	938.32	Irene Howard	40.00
Coresearch	759.00	Julia Galan	172.80
Crystal and Sierra Springs	153.64	Kit Schutte	291.38
CT Corporation	2,308.00	koldkist	400.00
Dale Kuhn	947.00	Kyle's Koastal Screening, LLC	295.00
Darnell Culpepper	947.00	Laura Belzer	34.98
DAS/State of Oregon	6,193.75	Lead TO Results LLC	68,943.63
Datasafe, Inc.	3,501.01	Legacy Laboratory Services	234.00
Davis Rothwell Earle & Xochihua PC	6,641.00	Mail Finance	656.24
Davis Trust Account	86,536.47	Margery Hansell	19.90
Davis Wright Tremaine	12,617.32	Maryland Unemployment Insurance Fund	60.00
De Lage Landen	2,401.68	McDonald & Wetle, Inc.	235.75
Delaware Association of Rehabilitation	100.00	Melvin Mark Brokerage Co.	251,401.95
Delaware Secretary of State	125.00	MIS Consulting & Sales, Inc.	19,386.25
Dell Marketing L.P.	1,729.38	Moda Health (Dental)	6,837.32
Department of Labor and Industries	24,640.59	NACM Oregon	256.90
DePaul Industries Health and Welfare PI	3,938.33	Nextel	124.23
Dept of Licensing - WA security license	(100.00)	Nissan Motor Acceptance Corp (NMAC)	1,219.50
Direct Capital	5,870.65	Noble Medical, Inc	5,053.83
Direct Capital - Portsmouth NH	423.90	NPRI INC.	3,750.00
Direct Transport	2,196.12	Nulogy	28,800.00
Dolphin Sea Containers	180.20	NW Natural	1,250.66
DPSST Private Security Unit	692.75	Occupational Health Centers	3,754.50
Earth2o	40.00	OT Properties - Boardman	1,510.00
Echo Publishing Inc	66.00	Pacific Office Automation	5,976.99
Employers Unity LLC	4,066.88	Pacific Office Automation - Lease	(57.89)
Employment Security Dept. Seattle	8,072.07	Pacific Power	1,363.76
FedEx	17,457.83	Paetec (new)	8,571.13
FedEx Freight	32,942.10	Parkwood Northwest LLC	100.00
FedEx Truckload Brokerage	3,640.00	Passport Immigration Photos	700.00
First Choice Coffee Service	2,246.58	Patrick Fields	183.60
Ford Credit	1,332.12	Penske Truck Leasing Co. LP	6,104.71
Fuelman	2,023.26	Petro Card (fuel for PCC)	31.69

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**SCHEDULE 6.2(b)**  
**Existing Unsecured Debt**

PGE	3,352.36
Philadelphia Insurance Companies	20,306.89
Portland Habilitation Center, Inc	290.72
Portland Police Alarms	567.12
Portland Water Dept.	218.58
Premium Property Management - Salem Rent	2,550.00
Profectus, Inc.	10,828.66
Providence Health Plan - Employees	172,230.98
Qwest - Dex	400.00
Register Square of Glen Burnie LLC	229.50
Rehabilitation Services Accreditation	165.00
Rob Williams	360.00
Rose City Messenger	75.00
Saif Corporation	76,386.31
Salesforce.org	2,520.00
Sanitary Disposal, Inc. (Hermiston)	34.20
Secretary of State / Oregon	50.00
Secure Medical Care	2,753.00
Sedcor	200.00
Seley Investment Group, LLC	501.00
Sherita Scott	695.00
Sonitrol Pacific	414.00
Sprague - Pest Solutions	1,341.08
Standard Insurance Co.	7,015.41
Staples	11,483.04
State of Oregon Corporation Div. Notary	50.00
Sterling Infosystems Co.	48,808.31
Steve Fortney	5,000.00
Tempworks Software, Inc	13,500.00
The Conference Group	486.08
The Doctors Clinic	123.00
THL Holdings, LLC Idaho	1,575.00
Toyota Financial Services	329.73
Travelers	(3,454.71)
Travis J. Pearson	360.00
Umatilla Electric Cooperative	253.64
United Fire, Health & Safety	104.85
United Parcel Service (Garlington)	200.00
Unum Life Insurance Co. of America	9,381.02
UPS Freight	1,238.84
UPS Supply Chain Solutions, Inc	2,178.58
USBank	18.83
Verizon Wireless	15,426.02
Vicki Price	947.00
Wendi Woods	156.78
WILLAMETTE ELEVATOR COMPANY	624.35
Washington Employment Security Department	239,510.64
Source America	474,340.57

Exhibit A

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**SCHEDULE 6.2(c)**  
**Existing Secured Debt**

<b><u>Name of Creditor</u></b>	<b><u>Amount</u></b>	
RSF Social Investment Fund, Inc.	\$1,872,188.00	
Access Business Finance, LLC	\$2,823,425.00	
Pacific Office Automation	\$5,976.99	
Nissan Motor Acceptance Corporation	\$1,219.50	
Small Business Term Loans	\$30,160.00	(Security Interest Disputed)
Capital Pacific Bank	\$0.00	
FirstLease, Inc.	\$7,648.42	
Ibis Capital Group	\$78,644.00	(Security Interest Disputed)
Ally Financial	\$15,216.00	
Ford Motor Credit	\$20,005.00	
Toyota Financial Services	\$8,296.84	

EXHIBIT A

[FORM OF LOAN NOTICE

[\_\_\_\_\_], 2016

AMCI Finance
as the Lender party to the Credit Agreement
referred to below
PO Box 8205
Spokane, WA 99203-0205
Attention: R. William Schweiger

Ladies and Gentlemen:

Reference is made to that certain Debtor-in-Possession Credit Agreement, dated as of June 10, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"; the capitalized terms defined therein being used herein as therein defined), among DePaul Industries, an Oregon public benefit corporation that is a debtor in possession in a case pending under Chapter 11 of the Bankruptcy Code ("DPI"), DePaul Services, Inc., an Oregon public benefit corporation that is a debtor in possession in a case pending under Chapter 11 of the Bankruptcy Code, as borrowers (together with DPI, the "Borrowers") and Associated Management Consultants, Inc., a Washington corporation doing business under the assumed name AMCI Finance, as lender (the "Lender").

The Borrowers hereby give you notice, irrevocably, pursuant to Section 2.2 of the Credit Agreement, that they request a borrowing under the Credit Agreement, and in that connection sets forth below the information relating to such borrowing of the Loan (the "Credit Event") as required by Section 2.2 of the Credit Agreement:

- 1. The Business Day of the Credit Event is: \_\_\_/\_\_\_/2016
2. Total Eligible Accounts \$\_\_\_\_\_
3. Current Loan Balance \$\_\_\_\_\_
4. New Loan Advance Request \$\_\_\_\_\_
5. Loan Balance After New Loan Advance (max. \$1,000,000) \$\_\_\_\_\_
6 Total Loan Balance as % of Eligible Accounts (max. 150%) \_\_\_\_\_%
7. Loan Proceeds to be Disbursed to:
Bank: [\_\_\_\_\_] ABA: [\_\_\_\_\_] Account No.: [\_\_\_\_\_]

The Borrowers and the individuals signing below hereby certify that:

(A) each of the representations and warranties made by the Borrowers in or pursuant to the Loan Documents are true and correct on and as of the date hereof as if made on and as of the date hereof; and

(B) no Default or Event of Default has occurred and is continuing on the date hereof or after giving effect to the Credit Event requested to be made on the date specified above.

Sincerely,

DEPAUL INDUSTRIES

By: \_\_\_\_\_  
AMCI Authorized Signatory

By: \_\_\_\_\_  
AMCI Representative

DEPAUL SERVICES, INC.

By: \_\_\_\_\_  
AMCI Authorized Signatory

By: \_\_\_\_\_  
AMCI Representative

**EXHIBIT B**  
**FORM OF**  
**DEBTOR-IN-POSSESSION SECURITY AGREEMENT**

## DEBTOR-IN-POSSESSION SECURITY AGREEMENT

This Debtor-In-Possession Security Agreement (this “Agreement”), dated June 10, 2016, is among DePaul Industries, an Oregon public benefit corporation that is a debtor in possession in a case pending under Chapter 11 of the Bankruptcy Code (“DPI”), DePaul Services, Inc., an Oregon public benefit corporation that is a debtor in possession in a case pending under Chapter 11 of the Bankruptcy Code (together with DPI, the “Borrowers”), and Associated Management Consultants, Inc., a Washington corporation doing business under the assumed name AMCI Finance (together with its successors and assigns, the “Lender”).

### PRELIMINARY STATEMENTS

A. The Borrowers have entered into a Debtor-in-Possession Credit Agreement dated June 10, 2016 (as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”) with the Lender.

B. The Borrowers are entering into this Agreement pursuant to the Credit Agreement in order to grant to the Lender a security interest in the Collateral (as hereinafter defined).

C. To supplement the Financing Orders, and without in any way diminishing or limiting the effect of the Financing Orders or the Liens granted thereby, the parties hereto desire to more fully evidence such Liens.

D. Terms defined in the Credit Agreement and not otherwise defined in this Agreement are used in this Agreement as defined in the Credit Agreement. Further, unless otherwise defined in this Agreement or in the Credit Agreement, terms defined in Article 8 or 9 of the UCC (as defined below) are used in this Agreement as such terms are defined in such Article 8 or 9. “UCC” means the Uniform Commercial Code as in effect, from time to time, in the State of Oregon; provided, however, that if the attachment, perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Oregon, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to make each Loan under the Credit Agreement, the Borrowers hereby agree with the Lender as follows:

1. Grant of Security. The Borrowers hereby grant to the Lender a security interest in all of the Borrowers’ right, title and interest in and to the following, in each case, as to each type of property described below, whether now owned or hereafter acquired by the Borrowers, wherever located, and whether



now or hereafter existing or arising, as security for the Secured Obligations (as defined below) (collectively, the “Collateral”):

(a) all equipment (any and all such property being the “Equipment”);

(b) all inventory (any and all such property being the “Inventory”);

(c) all accounts, chattel paper (including, without limitation, tangible chattel paper and electronic chattel paper), instruments (including, without limitation, promissory notes), deposit accounts, letter-of-credit rights, general intangibles (including, without limitation, payment intangibles) and other obligations of any kind, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services and whether or not earned by performance, and all rights now or hereafter existing in and to all supporting obligations and in and to all security agreements, mortgages, Liens, leases, letters of credit and other contracts securing or otherwise relating to the foregoing property (any and all of such accounts, chattel paper, instruments, deposit accounts, letter-of-credit rights, general intangibles and other obligations, to the extent not referred to in clause (d), (e), or (f) below, being the “Receivables”, and any and all such supporting obligations, security agreements, mortgages, Liens, leases, letters of credit and other contracts being the “Related Contracts”);

(d) the following (the “Security Collateral”):

(i) all shares of stock and other equity interests from time to time acquired by or owned by the Borrower in any manner (such shares and other equity interests being the “Pledged Interests”), and the certificates, if any, representing such additional shares or other equity interests, and all dividends, distributions, return of capital, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares or other equity interests and all subscription warrants, rights or options issued thereon or with respect thereto;

(ii) all indebtedness from time to time owed to the Borrower (such indebtedness being the “Pledged Debt”) and the instruments, if any, evidencing such indebtedness, and all interest, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such indebtedness; and

(iii) all other investment property (including, without limitation, all (A) securities, whether certificated or uncertificated, (B) security entitlements, (C) securities accounts, (D) commodity contracts and (E) commodity accounts) in which the Borrower has now, or acquires from time to time hereafter, any right, title or interest in any manner, and the certificates or instruments, if any, representing or evidencing such investment property, and all

dividends, distributions, return of capital, interest, distributions, value, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such investment property and all subscription warrants, rights or options issued thereon or with respect thereto;

(e) the following (collectively, the “Account Collateral”):

(i) all deposit accounts and all funds and financial assets from time to time credited thereto (including, without limitation, all cash equivalents), all interest, dividends, distributions, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such funds and financial assets, and all certificates and instruments, if any, from time to time representing or evidencing the Deposit Accounts;

(ii) all promissory notes, certificates of deposit, deposit accounts, checks and other instruments from time to time delivered to or otherwise possessed by the Lender for or on behalf of the Borrower, including, without limitation, those delivered or possessed in substitution for or in addition to any or all of the then existing Account Collateral; and

(iii) all interest, dividends, distributions, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the then existing Account Collateral;

(f) the following (collectively, the “Intellectual Property Collateral”):

(i) all patents, patent applications and inventions claimed or disclosed therein and all improvements thereto (“Patents”);

(ii) all trademarks, service marks, domain names, trade dress, logos, designs, slogans, trade names, business names, corporate names and other source identifiers, whether registered or unregistered (provided that no security interest shall be granted in United States intent-to-use trademark applications to the extent that, and solely during the period in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark applications under applicable law), together, in each case, with the goodwill symbolized thereby (“Trademarks”);

(iii) all copyrights, including, without limitation, copyrights in Computer Software (as hereinafter defined), Internet web sites and the content thereof, whether registered or unregistered (“Copyrights”);

(iv) all computer software, programs and databases (including, without limitation, source code, object code and all related

applications and data files), firmware and documentation and materials relating thereto, and any substitutions, replacements, improvements, error corrections, updates and new versions of any of the foregoing (“Computer Software”);

(v) all confidential and proprietary information, including, without limitation, know-how, trade secrets, manufacturing and production processes and techniques, inventions, research and development information, databases and data, including, without limitation, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information (collectively, “Trade Secrets”), and all other intellectual, industrial and intangible property of any type;

(vi) all registrations and applications for registration for any of the foregoing, including, without limitation, those registrations and applications for registration set forth in Schedule I hereto (as such Schedule I may be supplemented from time to time by any Intellectual Property Security Agreement executed by the Borrower and the Lender from time to time), together with, as applicable, all reissues, divisions, continuations, continuations-in-part, extensions, renewals and reexaminations thereof;

(vii) all tangible embodiments of the foregoing, all rights in the foregoing provided by international treaties or conventions, all rights corresponding thereto throughout the world and all other rights of any kind whatsoever of the Borrower accruing thereunder or pertaining thereto;

(viii) all agreements, permits, consents, orders and franchises relating to the license, development, use or disclosure of any of the foregoing to which the Borrower, now or hereafter, is a party or a beneficiary (“IP Agreements”); and

(ix) any and all claims for damages and injunctive relief for past, present and future infringement, dilution, misappropriation, violation, misuse or breach with respect to any of the foregoing, with the right, but not the obligation, to sue for and collect, or otherwise recover, such damages;

(g) all books and records (including, without limitation, customer lists, credit files, printouts and other computer output materials and records) of the Borrower pertaining to any of the Collateral; and

(h) all proceeds of, collateral for, income, royalties and other payments now or hereafter due and payable with respect to, and supporting obligations relating to, any and all of the Collateral (including, without limitation, proceeds, collateral and supporting obligations that constitute property of the types described in clauses (a) through (g) of this Section 1 and this clause (h)) and, to the extent not otherwise included, all (A) payments under insurance (whether or not the Lender is the loss payee thereof), or any indemnity, warranty

or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral, (B) tort claims, including, without limitation, all commercial tort claims, and (C) cash; provided, however, that (i) the Collateral shall not include any Avoidance Actions and the proceeds and recoveries therefrom, and (ii) notwithstanding anything to the contrary contained in clause (f) above, Intellectual Property Collateral shall not include intellectual property in relation to which any applicable law, regulation, agreement with a domain name registrar, or other contractual arrangement, prohibits the creation of a security interest therein or would otherwise invalidate the Borrower's right, title or interest therein.

2. Security for Obligations. This Agreement and the Collateral secures the payment and performance of all Obligations of the Borrowers now or hereafter existing under the Loan Documents, whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest, fees, premiums, penalties, indemnifications, contract causes of action, costs, expenses or otherwise (all such Obligations being the "Secured Obligations").

3. Borrowers Remains Liable. Anything herein to the contrary notwithstanding, (a) the Borrowers shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all of their duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Lender of any of the rights hereunder shall not release the Borrowers from any of their duties or obligations under the contracts and agreements included in the Collateral, and (c) the Lender shall have no obligation or liability under the contracts and agreements included in the Collateral by reason of this Agreement or any other Loan Document, nor shall the Lender be obligated to perform any of the obligations or duties of a Borrower thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

4. Delivery and Control of Security Collateral.

(a) All certificates or instruments representing or evidencing Security Collateral shall be delivered to and held by or on behalf of the Lender pursuant hereto and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to the Lender. If an Event of Default shall have occurred and be continuing, the Lender shall have the right (i) at any time to exchange certificates or instruments representing or evidencing Security Collateral for certificates or instruments of smaller or larger denominations, and (ii) at any time in its discretion and without notice to the Borrowers, to transfer to or to register in the name of the Lender or any of its nominees any or all of the Security Collateral, subject only to the revocable rights specified in Section 10(a).

(b) With respect to any Security Collateral in which a Borrower has any right, title or interest and that constitutes an uncertificated security, upon reasonable request from the Lender, the Borrowers will use commercially reasonable efforts to cause the issuer thereof, either (i) to register the Lender as the registered owner of such security, or (ii) to agree in an authenticated record with the Borrowers and the Lender that such issuer will comply with instructions with respect to such security originated by the Lender without further consent of the Borrowers, such authenticated record to be in form and substance reasonably satisfactory to the Lender. With respect to any Security Collateral in which a Borrower has any right, title or interest and that is not an uncertificated security, upon the request of the Lender upon the occurrence and during the continuance of an Event of Default, the Borrowers will notify each issuer of Pledged Interests pledged by the Borrowers that such Pledged Interests is subject to the security interest granted hereunder.

(c) With respect to any Security Collateral in which a Borrower has any right, title or interest and that constitutes a security entitlement in which the Lender is not the entitlement holder, upon reasonable request from the Lender, the Borrowers will use commercially reasonable efforts to cause the securities intermediary with respect to such security entitlement either (i) to identify in its records the Lender as the entitlement holder of such security entitlement against such securities intermediary, or (ii) to agree in an authenticated record with the Borrowers and the Lender that such securities intermediary will comply with entitlement orders (that is, notifications communicated to such securities intermediary directing transfer or redemption of the financial asset to which a Borrower has a security entitlement) originated by the Lender without further consent of the Borrowers, such authenticated record to be in form and substance reasonably satisfactory to the Lender.

(d) Upon the request of the Lender upon the occurrence and during the continuance of an Event of Default and without further order from the Bankruptcy Court, but subject to the Financing Orders, the Borrowers will notify each such issuer of Pledged Debt that such Pledged Debt pledged by the Borrowers is subject to the security interest granted hereunder.

(e) Without the prior written consent of the Lender, the Borrowers shall not vote to enable or take any other action to cause any issuer of any Pledged Interests that are not securities (for purposes of the UCC) on the date hereof to elect or otherwise take any action to cause such Pledged Interests to be treated as securities for purposes of the UCC unless the Borrowers shall promptly notify the Lender in writing of any such proposed election or action and shall take all steps necessary or advisable to establish the Lender's "control" on the date such Pledged Interests are treated as securities for purposes of the UCC.

5. Superpriority Claim and Liens. So long as any Loan or any other Obligation (other than indemnification Obligations for which no claims have been made) of the Borrowers under any Loan Document shall remain unpaid or

unsatisfied or the Lender shall have any Commitment under the Credit Agreement, the Borrowers hereby covenant, represent and warrant that, upon entry of the Interim DIP Order, the Obligations of the Borrowers under the Loan Documents shall be secured by the Liens and claims to the extent provided in the Financing Orders and in Sections 2.10 and 2.11 of the Credit Agreement.

6. Representations and Warranties. The Borrowers represent and warrant as follows:

(a) Each Borrower's exact legal name, as defined in Section 9-503(a) of the UCC, is correctly set forth in the preamble to this Agreement. Each Borrower is located (within the meaning of Section 9-307 of the UCC) and has its chief executive office in the state of Oregon.

(b) The Borrowers are the legal and beneficial owner of the Collateral free and clear of any Lien, claim, option, or right of others, other than Liens permitted under the Credit Agreement and the Financing Orders. No effective financing statement or other instrument similar in effect covering all or any part of such Collateral or listing a Borrower or any trade name of a Borrower as debtor is on file in any recording office, except such as may have been filed in favor of the Lender relating to the Loan Documents or as otherwise permitted under the Credit Agreement and the Financing Orders.

(c) All filings and other actions (other than (A) actions necessary to obtain control of Collateral as provided in Sections 9-104, 9-105 and 9-107 of the UCC and Section 16 of Uniform Electronic Transactions Act and (B) actions necessary to perfect the Lender's security interest with respect to Collateral evidenced by a certificate of ownership) necessary to perfect, to the extent that perfection can be accomplished by such filings or other actions, the security interest in the Collateral of the Borrowers created under this Agreement have been (or contemporaneously herewith will be) duly made or taken and, upon the entry by the Bankruptcy Court of the Interim DIP Order, are (or, upon filing or taking of such other actions, will be) in full force and effect, and upon the entry by the Bankruptcy Court of the Interim DIP Order and without in any way diminishing or limiting the effect of the Financing Orders, this Agreement creates in favor of the Lender a valid and, together with such filings and other actions, perfected first priority security interest in the Collateral of the Borrowers, to the extent that perfection can be accomplished by such filings or actions, subject to the Liens permitted under the Credit Agreement and the Financing Orders, securing the payment of the Secured Obligations. Notwithstanding the foregoing, nothing in this Agreement shall require the Borrowers to make any filings or take any actions to record or perfect the security interest in any Intellectual Property Collateral outside the United States.

(d) Subject to the entry of the Interim DIP Order, no further authorization or approval or other action by, and no further notice to or filing with, any governmental authority or regulatory body or any other third party is

required for (i) the grant by the Borrowers of the security interest granted hereunder or for the execution, delivery or performance of this Agreement by the Borrowers, (ii) the perfection or maintenance of the security interest created hereunder (including the first priority nature of such security interest, subject to the Liens permitted under the Credit Agreement and the Financing Orders), or (iii) the exercise by the Lender of its voting or other rights provided for in this Agreement or the remedies in respect of the Collateral pursuant to this Agreement, except as may be required in connection with the disposition of any portion of the Security Collateral by laws affecting the offering and sale of securities generally.

(e) Subject to the entry of the Interim DIP Order, the Borrowers have the corporate power and authority and the legal right to execute and deliver, to perform their obligations under, and to grant the Lien on the Collateral pursuant to this Agreement and have taken all necessary corporate actions to authorize their execution, delivery and performance of, and grant of the Lien on the Collateral pursuant to this Agreement.

(f) Subject to the entry of the Interim DIP Order, the Borrowers are duly authorized to execute and deliver this Agreement to the Lender, and this Agreement constitutes the legal, valid and binding obligation of the Borrowers, enforceable against the Borrowers in accordance with its terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law).

7. Further Assurances.

(a) The Borrowers will, from time to time and at their expense, promptly execute and deliver, or otherwise authenticate, all further instruments and documents, and take all further action that may be necessary or desirable, or that the Lender may reasonably request, in order to perfect and protect any pledge or security interest granted or purported to be granted by the Borrowers hereunder or to enable the Lender to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, the Borrowers will promptly with respect to Collateral: (i) if an Event of Default shall have occurred and be continuing or if requested by the Lender, and without further order of the Bankruptcy Court, mark conspicuously each document, instrument and chattel paper included in Receivables, each Related Contract and, at the request of the Lender, each of its records pertaining to such Collateral with a legend, in form and substance satisfactory to the Lender, indicating that such document, instrument, chattel paper, Related Contract or Collateral is subject to the security interest granted hereby; (ii) if any such Collateral shall be evidenced by a promissory note or other instrument or chattel paper individually or in the aggregate in an amount in excess of \$100,000, at the reasonable request of the Lender, deliver and pledge to the Lender hereunder such note or instrument or chattel paper duly indorsed and accompanied by duly

executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Lender; (iii) execute or authenticate and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary, or as the Lender may reasonably request, in order to perfect and preserve the security interest granted or purported to be granted by the Borrowers hereunder; (iv) at the reasonable request of the Lender, deliver and pledge to the Lender certificates representing Security Collateral that constitutes certificated securities, accompanied by undated stock or bond powers executed in blank; (v) at the reasonable request of the Lender, take all action necessary to ensure that the Lender has control of Collateral consisting of deposit accounts, electronic chattel paper, investment property, letter-of-credit rights and transferable records as provided in Sections 9-104, 9-105, 9-106 and 9-107 of the UCC and in Section 16 of Uniform Electronic Transactions Act; (vi) at the reasonable request of the Lender, take all action to ensure that the Lender's security interest is noted on any certificate of ownership related to any Collateral evidenced by a certificate of ownership; (vii) at the reasonable request of the Lender, cause the Lender to be the beneficiary under all letters of credit that constitute Pledged Collateral, with the exclusive right to make all draws under such letters of credit, and with all rights of a transferee under Section 5-114(e) of the UCC; and (viii) at the reasonable request of the Lender, deliver to the Lender evidence that all other action that the Lender may reasonably deem necessary in order to perfect and protect the security interest created by the Borrowers under this Agreement has been taken.

(b) The Borrowers hereby authorize the Lender to file one or more financing or continuation statements, and amendments thereto, including, without limitation, one or more financing statements indicating that such financing statements cover all assets or all personal property (or words of similar effect) of the Borrowers, in each case without the signature of the Borrowers, and regardless of whether any particular asset described in such financing statements falls within the scope of the UCC or the granting clause of this Agreement. A photocopy or other reproduction of this Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law. The Borrowers ratify their authorization for the Lender to have filed such financing statements, continuation statements or amendments filed prior to the date hereof.

(c) The Borrowers will furnish to the Lender from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with such Collateral as the Lender may reasonably request, all in reasonable detail and similar in nature and scope to other statements and schedules required under or constituting a part of this Agreement.



8. Collections on Receivables and Related Contracts.

(a) For so long as the Credit Agreement remains in effect and until the Secured Obligations have been indefeasibly paid in full, all proceeds of Receivables shall be deposited into the Lender's designated bank account as provided herein. The Borrowers shall direct all of its account debtors to remit payments on such Receivables to the Lender in accordance with the Lender's written instructions, which shall accompany the Borrower's invoices to such account debtors. The Borrowers shall transmit to the Lender, by email, copies of all invoices over \$10,000 that are sent to account debtors on the same day and shall provide the Lender from time to time all transaction data relating to its Receivables in such a format and time schedule the Lender may reasonably require. So long as an Event of Default has not occurred and is not continuing, the Lender shall remit to the Borrowers on each Business Day, by wire transfer or ACH to the Borrowers' designated DIP bank account, an amount equal to all cash proceeds of Receivables received by the Lender on the prior Business Day.

(b) Except as otherwise provided in this subsection (b), the Borrowers will continue to have the right to enforce, at their own expense, all amounts due or to become due the Borrowers under the Receivables and Related Contracts. In connection therewith, the Borrowers may take (and, during an Event of Default at the Lender's direction, will take) such action as the Borrowers or, during an Event of Default, the Lender may deem necessary or advisable to enforce collection of the Receivables and Related Contracts; provided, however, that, upon the occurrence and during the continuance of an Event of Default, (i) the Lender shall have the right to adjust, settle or compromise the amount or payment of any Receivable, in the same manner and to the same extent as the Borrowers might have done, and to otherwise exercise all rights with respect to such Receivables and Related Contracts, including, without limitation, those set forth set forth in Section 9-607 of the UCC, and (ii) the Borrowers will not adjust, settle or compromise the amount or payment of any Receivable or amount due on any Related Contract, release wholly or partly any account debtor thereof, or allow any credit or discount thereon. The Borrowers will not permit or consent to the subordination of its right to payment under any of the Receivables and Related Contracts to any other indebtedness or obligations of the Obligor thereof.

9. Intellectual Property Collateral.

(a) The Borrowers shall take all steps which they or the Lender deems reasonable and appropriate under the circumstances to preserve and protect each item of its material Intellectual Property Collateral, including, without limitation, maintaining the quality of any and all products or services used or provided in connection with any of the Trademarks.

(b) The Borrowers agree that should they obtain an ownership interest in any item of the type set forth in Section 1(f) that is not on the date hereof a part of the Intellectual Property Collateral ("After-Acquired Intellectual

Property”) (i) the provisions of this Agreement shall automatically apply thereto, and (ii) any such After-Acquired Intellectual Property and, in the case of trademarks, the goodwill symbolized thereby, shall automatically become part of the Intellectual Property Collateral subject to the terms and conditions of this Agreement with respect thereto. Within ten days of acquiring After-Acquired Intellectual Property, the Borrowers shall give prompt written notice to the Lender identifying the After-Acquired Intellectual Property acquired, and the Borrowers shall execute and deliver to the Lender with such written notice, or otherwise authenticate, a separate intellectual property security agreement, in form satisfactory to the Lender, covering the registered or applied for U.S. After-Acquired Intellectual Property, which Intellectual Property Security Agreement Supplement the Lender may record with the U.S. Patent and Trademark Office, the U.S. Copyright Office, or any other U.S. governmental authorities necessary to perfect the security interest hereunder in such registered or applied for After-Acquired Intellectual Property.

10. Voting Rights; Dividends; Etc.

(a) So long as no Event of Default shall have occurred and be continuing:

(i) The Borrowers shall be entitled to exercise any and all voting and other consensual rights pertaining to the Security Collateral of the Borrowers or any part thereof for any purpose;

(ii) The Borrowers shall be entitled to receive and retain any and all dividends, interest and other distributions paid in respect of the Security Collateral of the Borrowers if and to the extent that the payment thereof is not otherwise prohibited by the terms of the Loan Documents; provided, however, that any and all

(A) dividends, interest and other distributions paid or payable other than in cash in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Security Collateral,

(B) dividends and other distributions paid or payable in cash in respect of any Security Collateral of the Borrowers in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in-surplus, and

(C) cash paid, payable or otherwise distributed in respect of principal of, or in redemption of, or in exchange for, any Security Collateral of the Borrowers,

shall be, and shall be forthwith delivered to the Lender to hold as, Security Collateral and shall, if received by the Borrowers, be received in trust for the benefit of the Lender, be segregated from the other property or funds of the

Borrowers and be forthwith delivered to the Lender as Security Collateral in the same form as so received (with any necessary indorsement).

(iii) The Lender will execute and deliver (or cause to be executed and delivered) to the Borrowers all such instruments as the Borrowers may reasonably request for the purpose of enabling the Borrowers to exercise the voting and other rights that it is entitled to exercise pursuant to paragraph (i) above and to receive the dividends or interest payments that it is authorized to receive and retain pursuant to paragraph (ii) above.

(b) Upon the occurrence and during the continuance of an Event of Default and without further order from the Bankruptcy Court, but subject to the Financing Orders:

(i) All rights of the Borrowers (A) to exercise or refrain from exercising the voting and other consensual rights that it would otherwise be entitled to exercise pursuant to Section 10(a)(i) shall, upon notice to the Borrowers by the Lender, cease and (B) to receive the dividends, interest and other distributions that it would otherwise be authorized to receive and retain pursuant to Section 10(a)(ii) shall automatically cease, and all such rights shall thereupon become vested in the Lender, which shall thereupon have the sole right to exercise or refrain from exercising such voting and other consensual rights and to receive and hold as Security Collateral such dividends, interest and other distributions.

(ii) All dividends, interest and other distributions that are received by the Borrowers contrary to the provisions of paragraph (i) of this Section 10(b) shall be received in trust for the benefit of the Lender, shall be segregated from other funds of the Borrowers and shall be forthwith paid over to the Lender as Security Collateral in the same form as so received (with any necessary indorsement).

11. Transfers and Other Liens; Additional Shares.

(a) The Borrowers will not (i) sell, assign or otherwise dispose of, or grant any option with respect to, any of the Collateral, other than sales, assignments and other dispositions of Collateral, and options relating to Collateral, permitted under the terms of the Credit Agreement or expressly permitted by the Financing Orders, or (ii) create or suffer to exist any Lien upon or with respect to any of the Collateral of the Borrowers except for the pledge, assignment and security interest created under this Agreement and Liens permitted under Section 6.1 of the Credit Agreement or expressly permitted by the Financing Orders; provided that in no event shall any of the Security Collateral be sold, assigned or disposed of or be or become subject to a Lien (other than the Liens created under this Agreement).

(b) The Borrowers will (i) cause each issuer of the Pledged Interests pledged by the Borrowers not to issue any Equity Interests or other securities in addition to or in substitution for the Pledged Interests issued by such issuer, except to the Borrowers, and (ii) pledge hereunder, immediately upon its acquisition (directly or indirectly) thereof, any and all additional Equity Interests or other securities.

12. Lender Appointed Attorney-in-Fact. Subject to the Financing Orders, the Borrowers hereby irrevocably appoint the Lender their attorney-in-fact, with full authority in the place and stead of the Borrowers and in the name of the Borrowers or otherwise, from time to time, upon the occurrence and during the continuance of an Event of Default, in the Lender's discretion, to take any action and to execute any instrument that the Lender may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation:

(a) to obtain and adjust insurance claims with respect to the Collateral,

(b) to ask for, demand, collect, sue for, recover, compromise, receive and give acquaintances and receipts for moneys due and to become due under or in respect of any of the Collateral,

(c) to receive, indorse and collect any drafts or other instruments, documents and chattel paper, in connection with clause (a) or (b) above, and

(d) to file any claims or take any action or institute any proceedings that the Lender may deem necessary for the collection of any of the Collateral or otherwise to enforce the rights of the Lender with respect to any of the Collateral.

13. Lender May Perform. If the Borrowers fail to perform any agreement contained herein, the Lender may, but without any obligation to do so and without notice, itself perform, or cause performance of, such agreement, and the expenses of the Lender incurred in connection therewith shall be payable by the Borrowers under Section 15.

14. The Lender's Duties. The powers conferred on the Lender hereunder are solely to protect the Lender's interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Lender shall have no duty as to any Collateral, as to ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to any Collateral. The Lender shall be deemed to have exercised

reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which it accords its own property.

15. Remedies. If any Event of Default shall have occurred and be continuing, after giving five Business Days' prior written notice to the Borrowers (with a copy thereof filed with the Bankruptcy Court) and without further order of or application to the Bankruptcy Court:

(a) The Lender may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected Collateral) and also may:

- (i) require the Borrowers to, and the Borrowers hereby agree that they will at their expense and upon request of the Lender forthwith, assemble all or part of the Collateral as directed by the Lender and make it available to the Lender at a place and time to be designated by the Lender that is reasonably convenient to the parties;
- (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Lender's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Lender may deem commercially reasonable;
- (iii) occupy any premises owned or leased by the Borrowers where the Collateral or any part thereof is assembled or located for a reasonable period in order to effectuate its rights and remedies hereunder or under law, without obligation to the Borrowers in respect of such occupation; and
- (iv) exercise any and all rights and remedies of the Borrowers under or in connection with the Collateral, or otherwise in respect of the Collateral, including, without limitation, (A) any and all rights of the Borrowers to demand or otherwise require payment of any amount under, or performance of any provision of, the Receivables, the Related Contracts and the other Collateral, (B) withdraw, or cause or direct the withdrawal, of all funds with respect to the Account Collateral and (C) exercise all other rights and remedies with respect to the Receivables, the Related Contracts and the other Collateral, including, without limitation, those set forth in Section 9-607 of the UCC.

The Borrowers agree that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the Borrowers of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Lender shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by or on behalf of the Lender and all cash proceeds received by or on behalf of the Lender in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Lender, be held by the Lender as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the

Lender pursuant to Section 15) in whole or in part by the Lender against, all or any part of the Secured Obligations, as set forth in Section 7.2 of the Credit Agreement. Any surplus of such cash or cash proceeds held by or on behalf of the Lender and remaining after payment in full of all of the Secured Obligations shall be paid over to the Borrowers or to whomsoever may be lawfully entitled to receive such surplus.

(c) All payments received by the Borrowers in respect of the Collateral shall be received in trust for the benefit of the Lender, shall be segregated from other funds of the Borrowers and shall be forthwith paid over to the Lender in the same form as so received (with any necessary indorsement).

(d) The Lender may at any time or from time to time, charge, set-off and otherwise apply all or any part of the Secured Obligations against any funds held with respect to the Account Collateral or in any other deposit account. The Lender agrees to notify the Borrowers promptly after any such charge or set-off; provided that failure to give such notice shall not affect the validity of such charge or set-off.

(e) In the event of any sale or other disposition of any of the Intellectual Property Collateral of the Borrowers, the goodwill symbolized by any Trademarks subject to such sale or other disposition shall be included therein, and the Borrowers shall supply to the Lender or its designee the Borrowers' know-how and expertise relating to such Intellectual Property Collateral, and documents relating to any Intellectual Property Collateral subject to such sale or other disposition, and the Borrowers' customer lists and other records and documents relating to such Intellectual Property Collateral and to the manufacture, distribution, advertising and sale of products and services of the Borrowers that relate to such Intellectual Property Collateral.

(f) If the Lender shall determine to exercise its right to sell all or any of the Security Collateral of the Borrowers pursuant to this Section 15, the Borrowers agree that, upon request of the Lender, the Borrowers will, at their own expense, do or cause to be done all such other acts and things as may be necessary to make such sale of such Security Collateral or any part thereof valid and binding and in compliance with applicable law.

(g) The Lender is authorized, in connection with any sale of the Security Collateral pursuant to this Section 15, to deliver or otherwise disclose to any prospective purchaser of the Security Collateral any information in its possession relating to such Security Collateral.

(h) At any public (or, to the extent permitted by law, private) sale made pursuant to this Agreement, the Lender may bid for or purchase, free (to the extent permitted by applicable law) from any right of redemption, stay, valuation or appraisal on the part of the Borrowers (all said rights being also hereby waived and released to the extent permitted by applicable law), the

Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to the Lender from the Borrowers as a credit against the purchase price, and the Lender may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to the Borrowers therefor. For purposes hereof, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof, the Lender shall be free to carry out such sale pursuant to such agreement, and the Borrowers shall not be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Lender shall have entered into such an agreement all Events of Default shall have been remedied and the Obligations paid in full.

(i) In the event and to the extent that the provisions of this Section 15 conflict with what is set forth in the Financing Orders, the Financing Orders shall govern.

16. Indemnity and Expenses.

(a) The Borrowers agree to indemnify, defend and save the Lender and each of its Affiliates and its respective officers, directors, employees, agents, sub-agents and advisors (each, an "Indemnified Party") from, and hold harmless each Indemnified Party against, and shall pay on demand, any and all claims, damages, losses, liabilities and related expenses (including, without limitation, the fees, charges and disbursements of counsel for any Indemnified Party) incurred by or asserted against any Indemnified Party, in each case arising out of or in connection with or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct.

(b) The Borrowers will upon demand pay to the Lender the amount of any and all reasonable documented out-of-pocket expenses, including, without limitation, the reasonable and documented out-of-pocket fees and expenses of its counsel and of any experts and agents, that the Lender may incur in connection with (i) the administration of this Agreement, (ii) the custody, preservation, use or operation of, or the sale of, collection from or other realization upon, any of the Collateral of the Borrowers, (iii) the exercise or enforcement of any of the rights of the Lender, or (iv) the failure by the Borrowers to perform or observe any of the provisions hereof.

17. Amendments; Waivers; Etc. No amendment or waiver of any provision of this Agreement, and no consent to any departure by the Borrowers herefrom, shall in any event be effective unless the same shall be in writing and signed by the Lender and, with respect to any amendment, the Borrowers, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of the Lender to

exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

18. Notices. All notices, requests and demands to or upon the Lender or the Borrowers hereunder shall be effected in the manner provided for in Section 8.2 of the Credit Agreement.

19. Continuing Security Interest; Assignments under the Credit Agreement. This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until such time as the Secured Obligations (other than indemnification Obligations for which no claims have been made) shall have been indefeasibly paid in full in immediately available funds and the Commitments have been terminated, (b) be binding upon the Borrowers and their respective successors and assigns, and (c) inure, together with the rights and remedies of the Lender hereunder and its respective successors and permitted assigns. Without limiting the generality of the foregoing clause (c), the Lender may assign or otherwise transfer all or any portion of its rights and obligations under the Credit Agreement (including, without limitation, all or any portion of its Commitment, the Loans owing to it and the Note, if any, held by it) to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to the Lender herein or otherwise, in each case as provided in Section 8.7 of the Credit Agreement.

20. Release; Termination. Subject to the satisfaction of the conditions precedent stated in Section 8.15 of the Credit Agreement, the pledge and security interest granted hereby shall terminate and all rights to the Collateral shall revert to the Borrowers. Upon any such termination, the Lender will, at the Borrowers' expense, promptly execute and deliver to the Borrowers such documents as the Borrowers shall reasonably request to evidence such termination.

21. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission or other electronic imaging means shall be effective as delivery of a manually executed counterpart hereof.

22. Governing Law. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Oregon without regard to choice of law rules and, to the extent applicable, the Bankruptcy Code.

*(Signature pages follow.)*



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the date first above written.

DEPAUL INDUSTRIES

By: \_\_\_\_\_  
Travis Pearson, President

DEPAUL SERVICES, INC.

By: \_\_\_\_\_  
Travis Pearson, President

ASSOCIATED MANAGEMENT  
CONSULTANTS, INC.

By: \_\_\_\_\_  
R. William Schweiger, President

**EXHIBIT C**

**[FORM OF NOTE]**

**PROMISSORY NOTE**

THIS NOTE AND THE OBLIGATIONS REPRESENTED HEREBY MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS AND PROVISIONS OF THE CREDIT AGREEMENT REFERRED TO BELOW.

\$1,000,000

Portland, Oregon  
June \_\_, 2016

FOR VALUE RECEIVED, DePaul Industries, an Oregon public benefit corporation, and DePaul Services, Inc., an Oregon public benefit corporation (together, the "Borrowers") hereby jointly, severally and unconditionally promise to pay to Associated Management Consultants, Inc., a Washington corporation doing business under the assumed name AMCI Finance (the "Lender") or its assigns in Dollars (this and each other capitalized term used herein without definition having the meaning assigned to such term in the Credit Agreement referred to below) and in immediately available funds, the principal amount of One Million Dollars (\$1,000,000), or, if less, the aggregate unpaid principal amount of the Loans made by the Lender under the Credit Agreement. The principal amount shall be paid in the amounts and on the dates specified in Section 2 of the Credit Agreement. The Borrowers further agree to pay interest in like money at such office on the unpaid principal amount hereof from time to time outstanding at the rates and on the dates specified in the Credit Agreement.

This Note (a) is the Note issued pursuant to the Debtor-in Possession Credit Agreement, dated June 10, 2016, among the Borrowers and the Lender (as amended, restated, amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), (b) is subject to the provisions of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Loan evidenced hereby were made and are to be repaid, and (c) is secured as provided in the Loan Documents and the Financing Orders. Reference is hereby made to the Credit Agreement for a statement of all the terms and conditions under which the Loan evidenced hereby are to be repaid. Reference is hereby made to the Loan Documents and to the Financing Orders for a description of the property in which a security interest has been granted, the nature and extent of the security, the terms and conditions upon which the security interests were granted, and the rights of the holder of this Note in respect thereof.

Upon the occurrence and during the continuance of an Event of Default, all principal and all accrued interest then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable, all as provided in the Credit Agreement. No failure in exercising any rights hereunder or under

the other Loan Documents on the part of the Lender shall operate as a waiver of such rights.

Presentment, demand, protest and all other notices or requirements of any kind are hereby waived by the Borrowers.

This Note is governed by, and shall be construed and interpreted in accordance with, the laws of the State of Oregon without regard to choice of law rules.

**THIS NOTE IS NOT A NEGOTIABLE INSTRUMENT UNDER ARTICLE 3 OF THE UNIFORM COMMERCIAL CODE, AS IN EFFECT IN VARIOUS JURISDICTIONS.**

**UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS BY THE LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S PERSONAL RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE LENDER TO BE ENFORCEABLE.**

*(Signature pages follow.)*

DEPAUL INDUSTRIES

By: \_\_\_\_\_  
Travis Pearson, President

DEPAUL SERVICES, INC.

By: \_\_\_\_\_  
Travis Pearson, President

**Exhibit D  
Initial Budget**

DePaul Industries and DePaul Services																					
13-Week Cash Flow																					
DIP Financing/ Cash Collateral Budget																					
5/16 -7/1/16																					
	<u>6/13-6/17</u>	<u>6/20-6/24</u>	<u>6/27-7/1</u>	<u>7/4-7/8</u>	<u>7/11-7/15</u>	<u>7/18-7/22</u>	<u>7/25-7/29</u>	<u>8/1-8/5</u>	<u>8/8-8/12</u>	<u>8/15-8/19</u>	<u>8/22-8/26</u>	<u>8/29-9/2</u>	<u>9/5-9/9</u>								
	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget								
Net Beginning Balance	(40,000)	49,250	307,500	204,431	247,674	65,224	178,474	197,724	86,655	100,898	134,448	248,698	83,629								
Receipts																					
DIP Financing	700,000	(200,000)								100,000											
AR Receipts Umpqua	-	970,000	550,000	500,000	450,000	577,000	576,000	500,000	579,000	584,000	646,000	589,000	540,000								
AR Lender Borrowings																					
Total receipts	700,000	770,000	550,000	500,000	450,000	577,000	576,000	500,000	679,000	584,000	646,000	589,000	540,000								
Disbursements																					
Payroll (weekly)	360,000	350,000	350,000	358,000	370,000	380,000	380,000	395,000	410,000	425,000	440,000	440,000	440,000								
Payroll (semi monthly)	112,000		100,000		90,000		90,000		90,000			90,000									
Commissions	40,000				40,000						50,000										
Small rents		4,000	8,000					8,000				8,000									
Interest on Access/AMCI loan			13,000					26,000				26,000									
Office mortgage/loc			12,019					12,019				12,019									
SAIF		15,000			28,000					27,000											
MODA		6,000			6,000					6,000											
Providence		40,000	80,000					78,000				78,000									
Benchmade	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750								
Chapter 11 Professional Fees	25,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000								
UST Fees													13,000								
DIP Lender Fees (incl atty fees)	40,000																				
401(k)/403(b)		3,000	3,000		3,000		3,000		3,000		3,000		3,000		3,000		3,000		3,000		3,000
Other Insurance			8,300	Ches	15,307	Phil		8,300	Ches	15,307	Phil	3,700	Trav		8,300	Ches	15,307	Phil			
Expense reports		15,000				Berk	8,000			8,000											
Utilities					4,700	Berk	3,700	Trav	35,000		4,700	Berk								4,700	Berk
General payables	-	30,000	30,000	30,000	30,000		35,000		35,000		40,000		40,000		40,000		40,000		40,000		40,000
Total Disbursements	610,750	511,750	653,069	456,757	632,450	463,750	556,750	611,069	664,757	550,450	531,750	754,069	564,757								
Ending Balance	49,250	307,500	204,431	247,674	65,224	178,474	197,724	86,655	100,898	134,448	248,698	83,629	58,872								

## EXHIBIT E

### [SCHEUDLE OF MISCELLANEOUS FEES]

## MISCELLANEOUS FEES

- Effective October 1, 2014 -

The following fees and charges are a listing of the current additional fees which may change from time-to-time without notice if AMCI is required to provide services or functions requested by or for which CLIENT is required to provide:

#### Miscellaneous Fees:

- \$ 50.00 for UCC OR COUNTY LIEN SEARCH, each.
- \$ 50.00 for PAYMENT AGREEMENT ADMIN, for 1<sup>st</sup> agreement, \$10 for each additional agreement, each week.
- \$250.00 for AMCI REPRESENTATIVE or SIGNATORY agreement, each.
- \$100.00 for ACCOUNT ON HOLD, Running Balance, etc., processing chg, each.
- \$100.00 for AGREEMENT CHANGE(S) processing charge, each.
- \$100.00 for DISPUTE RESOLUTION, COLLECTION COSTS, etc, per hour, 1 hour min + costs, each.
- \$100.00 for PAYMENT AGREEMENT SET-UP, 1-time, each agreement.
- \$250.00 for QUARTERLY CERTIFICATION RESEARCH, not provided or missing, each quarter.
- \$500.00 for PAYMENT AGREEMENT NEGOTIATION AND DOCUMENTATION, 1-time, per agreement.

#### CHECK FEES:

- \$ 5.00 for CHECK ISSUED, each.
- \$ 10.00 for VOIDED CHECK, each.
- \$ 10.00 for EARLY RELEASE Of Facility or SOA prior to 4:30 PM PST/PDT.
- \$ 10.00 for WINCHAX (check faxed to AMCI converted to draft check), each.
- \$ 15.00 for REDEPOSIT OF A RETURNED CHECK, each.
- \$ 15.00 for ADVANCE REFUND + DAILY FEES, prior to normal scheduling, subject to approval, each.
- \$ 15.00 for RETURNED CHECK + ACCRUED FEES, for endorsement error, each.
- \$ 25.00 for RETURNED CHECK + ACCRUED FEES for RTM, NSF, etc., each.
- \$ 30.00 for STOP PAYMENT CHARGE, each.

#### CREDIT REPORT FEES:

- \$ 20.00 for INDIVIDUAL DOMESTIC CREDIT BUREAU REPORTS, each.
- \$ 25.00 for CREDIT REFERENCE CHECK, each.
- \$ 8.00 for "LITE" DOMESTIC COMPANY CREDIT INQUIRY REPORTS, each.
- \$ 30.00 for "STANDARD" DOMESTIC COMPANY CREDIT REPORTS, each.
- \$ 41.00 for "PREMIER" DOMESTIC COMPANY CREDIT REPORTS, each.
- \$ 45.00 for CANADIAN COMPANY CREDIT REPORTS, each.
- \$ CALL for INTERNATIONAL COMPANY REPORTS, each.

#### ELECTRONIC TRANSFER FEES:

- \$ 10.00 for ACH TRANSFER, \$100.00 minimum, 1-day funds delay, each.
- \$ 10.00 for EARLY WIRE OR ACH CHARGE, each.
- \$ 20.00 for DOMESTIC OUTGOING WIRE TRANSFER, \$100.00 minimum , each.
- \$ 25.00 for DOMESTIC INCOMING WIRE TRANSFER, each.
- \$ 25.00 for INTERNATIONAL INCOMING WIRE TRANSFER, each.
- \$ 45.00 for INTERNATIONAL OUTGOING WIRE TRANSFER, \$100.00 minimum , each.

MAILING FEES:

- \$ 0.25 for POST FEE + ACTUAL POSTAGE CHARGE, for each envelope.
- \$ 0.75 for ADDRESSING ENVELOPE, each envelope.
- \$ 1.75 for ENVELOPE + ADDRESSING, each envelope.
- \$ 2.00 for ENVELOPE + ADDRESSING + POST FEE + ACTUAL POSTAGE, each envelope.
- \$ 10.00 for OVERNIGHT MAIL + ACTUAL CARRIER COSTS, each.

MISCELLANEOUS FEES:

- \$ 0.50 for COPYING INVOICES, CHECKS, ATTACHMENTS, etc., for each page.
- \$ 1.00 for RE-FAX CHARGE after initial fax attempt or receipt, per page.
- \$ 1.99 for INVOICED PROCESSED, each Invoice
- \$ 1.99 for NON-PURCHASED INVOICE transferred to a new Processing SOA, each Invoice.
- \$ 2.50 for PHONE NUMBERS not provided or wrong numbers, each.
- \$ 10.00 for SOA OR FACILITY CHANGE FEE, each.
- \$ 10.00 for LATE REQUIRED REPORTS when not received as required, for each day.
- \$ 10.00 for COLLECTION CALLS, each.
- \$ 12.00 for BANK DEPOSIT BOOKS, for "Prime Plus" Clients Only, each.
- \$ 25.00 for MANUAL INPUT of an SOA + \$.99 per invoice entered, minimum of \$25.00 per SOA.
- \$ 15.00 for MISSING REQUIRED COPIES, for each missing item.
- \$ 15.00 for TRANSFER NON-BUY invoice from SOA to PSOA, each.
- \$ 25.00 for CORRECTION CHARGE FOR FACILITY, COMR, SOA, ADJ or FWH errors, ½ hour min, each.
- \$ 25.00 for ABNORMAL OR SPECIAL INVOICE VERIFICATION CHARGE, etc., each.
- \$ 25.00 for CANCELLATION of Facility or SOA received, each.
- \$ 45.00 for CHECK ENDORSMENT STAMP, each.
- \$ 50.00 for ELECTRONIC DATA FILE CORRECTION, per hour, ½ hour minimum, each file.
- \$ 50.00 for DOCUMENT OR PAPERWORK RETREIVAL, per hour, ½ hour minimum file.
- \$100.00 for WRITTEN PAY-OFF STATEMENT, per request.
- \$100.00 for TAX FORMS not submitted, when and as required, for payment by AMCI, each form late, per day late.
- \$ 100.00 or The greater of 10% of the face amount of each Client invoice not submitted on a Factoring Schedule of Accounts or Processing Schedule of Accounts the next normal business day following the original invoice date.
- \$250.00 for QUARTERLY CERTIFICATION forms, copies or reports when not submitted when required, per quarter.
- \$995.00 or The greater of 15% of the face amount of any payment for MISDIRECTED PAYMENT FEE, each; CLIENT depositing or directing to be deposited any Customer payment, check, Wire, ACH or any other payment in any form received to any account other than AMCI's designated bank account.

OVERADVANCE: If approved in writing by AMCI:

- \$25.00 for ADMINISTRATIVE FEE, per day
- \$500.00 for OVERADVANCE TRANSACTION FEE, each
- 12% APR OVERADVANCE FEE on the invoice or cash advance amount, in addition to normal fees.

TRANSACTION FEES:

- \$ 0.20 for ACH RECEIVED, each.
- \$ 0.40 for CHECK LISTED ON DEPOSIT TICKET, each.
- \$ 0.85 for DEPOSIT TICKET, each.
- \$ 1.80 for CASH DEPOSITED, per \$1,000.00 minimum, each.
- \$ 5.00 for INTERNATIONAL CHECK LISTED ON DEPOSIT TICKET, each.
- \$400.00 for LETTER OF CREDIT or Standby Letter of Credit DRAW min or greater of 0.2% face amount, each draw.
- \$600.00 for LETTER OF CREDIT or Standby Letter of Credit ISSUED min or greater of 3% face amount each, annually.
- \$500.00 for OVER-ADVANCE FEE, per occurrence, subject to AMCI written pre-approval.

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# BUDGET

DePaul Industries and DePaul Services																				
13-Week Cash Flow																				
DIP Financing/ Cash Collateral Budget																				
5/16 -7/1/16																				
	<u>6/13-6/17</u>	<u>6/20-6/24</u>	<u>6/27-7/1</u>	<u>7/4-7/8</u>	<u>7/11-7/15</u>	<u>7/18-7/22</u>	<u>7/25-7/29</u>	<u>8/1-8/5</u>	<u>8/8-8/12</u>	<u>8/15-8/19</u>	<u>8/22-8/26</u>	<u>8/29-9/2</u>	<u>9/5-9/9</u>							
	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget	Budget							
Net Beginning Balance	(40,000)	49,250	307,500	204,431	247,674	65,224	178,474	197,724	86,655	100,898	134,448	248,698	83,629							
Receipts																				
DIP Financing	700,000	(200,000)								100,000										
AR Receipts Umpqua	-	970,000	550,000	500,000	450,000	577,000	576,000	500,000	579,000	584,000	646,000	589,000	540,000							
AR Lender Borrowings																				
Total receipts	700,000	770,000	550,000	500,000	450,000	577,000	576,000	500,000	679,000	584,000	646,000	589,000	540,000							
Disbursements																				
Payroll (weekly)	360,000	350,000	350,000	358,000	370,000	380,000	380,000	395,000	410,000	425,000	440,000	440,000	440,000							
Payroll (semi monthly)	112,000		100,000		90,000		90,000		90,000			90,000								
Commissions	40,000				40,000						50,000									
Small rents		4,000	8,000					8,000				8,000								
Interest on Access/AMCI loan			13,000					26,000				26,000								
Office mortgage/loc			12,019					12,019				12,019								
SAIF		15,000			28,000					27,000										
MODA		6,000			6,000					6,000										
Providence		40,000	80,000					78,000				78,000								
Benchmade	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750	33,750							
Chapter 11 Professional Fees	25,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000							
UST Fees													13,000							
DIP Lender Fees (incl atty fees)	40,000																			
401(k)/403(b)		3,000	3,000		3,000		3,000		3,000		3,000		3,000		3,000		3,000		3,000	
Other Insurance			8,300	Ches	15,307	Phil		8,300	Ches	15,307	Phil	3,700	Trav		8,300	Ches	15,307	Phil		
Expense reports		15,000				Berk	8,000			8,000										
Utilities					4,700	Berk	3,700	Trav	35,000		4,700	Berk						4,700	Berk	
General payables	-	30,000	30,000	30,000	35,000		35,000		35,000		40,000		40,000		40,000		40,000		40,000	
Total Disbursements	610,750	511,750	653,069	456,757	632,450	463,750	556,750	611,069	664,757	550,450	531,750	754,069	564,757							
Ending Balance	49,250	307,500	204,431	247,674	65,224	178,474	197,724	86,655	100,898	134,448	248,698	83,629	58,872							