

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	:	Chapter 11
	:	
SCHOOL SPECIALTY, INC., <u>et al.</u>,¹	:	Case No. 13-10125 (KJC)
	:	
	:	Jointly Administered
	:	
Debtors.	:	Re: Docket Nos. 12, 13, 271, 300 & 431 ⁵²³
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**FINAL ORDER AUTHORIZING (I) REPLACEMENT POSTPETITION SECURED
FINANCING PURSUANT TO 11 U.S.C. §§ 105(A), 362, 363(B), 364(C)(1), 364(C)(3),
364(D)(1), 365(E) AND 507, (II) GRANT OF CERTAIN EQUAL AND RATABLE LIENS
AND SUPERPRIORITY CLAIMS TO THE AD HOC DIP LENDERS, AND (III)
REPAYMENT OF EXISTING POSTPETITION FINANCING AND PREPETITION
SECURED FINANCING PURSUANT TO 11 U.S.C. § 363**

Upon the motion (the “Motion”), dated February 25, 2013, of School Specialty, Inc. (“School Specialty” and, together with certain of its affiliates, the “Borrowers”) and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”) in the Chapter 11 Cases for entry of this order approving the Ad Hoc DIP Facility (as defined below) on a final basis (the “Final Order” and together with the Interim Order entered on February 26, 2013 [Docket No. 300] (the “Interim Order”, the “DIP Orders”) authorizing the Debtors, pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Bankruptcy Rules (the “Local Rules”) of the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), to, among other things:

¹ The Debtors in these cases (the “Chapter 11 Cases”), along with the last four digits of each Debtor’s federal tax identification number and state of incorporation, are: School Specialty, Inc. (Wisc.; 1239), Bird-In-Hand Woodworks, Inc. (N.J.; 8811), Califone International, Inc. (Del.; 3578), Childcraft Education Corp. (N.Y.; 9818), ClassroomDirect.com, LLC (Del.; 2425), Delta Education, LLC (Del.; 8764), Frey Scientific, Inc. (Del.; 3771), Premier Agendas, Inc. (Wash.; 1380), Sax Arts & Crafts, Inc. (Del.; 6436), and Sportime, LLC (Del.; 6939). The address of the Debtors’ corporate headquarters is W6316 Design Drive, Greenville, Wisconsin 54942.



(a) obtain replacement postpetition financing in an aggregate principal amount of up to \$155,000,000 (the "Ad Hoc DIP Facility"),² the proceeds of which shall be deposited into the Term Loan Priority Collateral Deposit Account,³ and enter into a senior secured and superpriority debtor-in-possession credit agreement related thereto (together with all schedules and exhibits thereto, as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Ad Hoc DIP Credit Agreement", and together with all security, pledge, guaranty and other lien and loan documents entered into in connection therewith, as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Ad Hoc DIP Documents"), substantially in the form filed with the Bankruptcy Court contemporaneously with the filing of the Motion, by and among the Borrowers, the Debtor and non-Debtor affiliate guarantors party thereto (the "Guarantors"), a syndicate of institutions (each an "Ad Hoc DIP Lender" and collectively, the "Ad Hoc DIP Lenders") and U.S. Bank National Association (the "Ad Hoc DIP Agent"), providing for, *inter alia*:

- (i) \$60,000,000 in respect of new money financing (less any amount used to repay all amounts previously outstanding under the debtor-in-possession facility (the "Bayside DIP Facility") provided by Bayside Finance LLC ("Bayside") as set forth in clause (iv) below) (the "New Money Financing"), subject to the terms and conditions set forth in the Ad Hoc DIP Documents;

² \$130,000,000 was made available to and was drawn in a single draw by the Debtors pursuant to the Interim Order on the Closing Date (as defined below), and following entry of this Final Order and subject to the terms and conditions set forth in the Ad Hoc DIP Credit Agreement (as defined below), (x) up to two (2) additional drawings of the Ad Hoc DIP Facility shall be made available upon no less than five (5) business days' prior written notice to the Ad Hoc DIP Agent (as defined below) and the Ad Hoc DIP Lenders (as defined below), which notice may be given prior to the entry of this Final Order, each in a principal amount of not less than \$5,000,000, and in the aggregate, not to exceed \$16,000,000, and (y) on or after May 20, 2013, one additional drawing of the Ad Hoc DIP Facility shall be made available upon five (5) business days' prior written notice to the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders in an aggregate principal amount not to exceed \$5,000,000 and (z) after May 27, 2013, one additional drawing of the Ad Hoc DIP Facility shall be made available upon five (5) business days' prior written notice to the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders in an aggregate principal amount not to exceed \$5,000,000.

³ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in, (i) the Motion and, if not defined therein, (ii) the *Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(3), 364(d)(1), 364(e) and 507, (B) Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, (C) Grant Priming Liens and Superpriority Claims to the DIP Lenders, (D) Provide Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364, and (E) Use Cash Collateral to Reduce Obligations Arising Under the ABL Credit Agreement, (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and (III) Granting Related Relief* [Docket No. 86] (the "Interim ABL DIP Order") and, if not defined therein, (iii) the *Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(3), 364(d)(1), 364(e) and 507, (B) Utilize Cash Collateral Pursuant to 11 U.S.C. § 363, (C) Grant Priming Liens and Superpriority Claims to the DIP Lenders, (D) Provide Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364, and (E) Use Cash Collateral and Proceeds of the ABL DIP Facility to Repay Obligations Arising Under the Prepetition ABL Credit Agreement and (II) Granting Related Relief* [Docket No. 299] (the "Final ABL DIP Order") and, if not defined therein, (iv) the Intercreditor Agreement, dated as of January 31, 2013, by and between Wells Fargo Capital Finance, LLC and Bayside Finance (as the same may be amended, restated, supplemented or modified from time to time, including as modified by the Final ABL DIP Order, the "DIP Intercreditor Agreement") and, if not defined therein, (v) the Ad Hoc DIP Credit Agreement.

- (ii) \$67,778,875 which was used by the Debtors on the Closing Date to repay the aggregate outstanding principal, and any accrued and unpaid fees and interest due under the Credit Agreement, dated as of May 22, 2012 (as amended, restated, supplemented or otherwise modified prior to the Petition Date (as defined below), the "Prepetition Term Loan Credit Agreement", and together with each loan document executed in connection with the Prepetition Term Loan Credit Agreement, the "Prepetition Term Loan Documents") among School Specialty, the borrowers and guarantors party thereto, the lenders party thereto (collectively, the "Prepetition Term Loan Lenders") and Bayside, as administrative agent (in such capacity, the "Prepetition Term Loan Agent" and together with the Prepetition Term Loan Lenders, the "Prepetition Term Loan Secured Parties") (other than (a) the Early Payment Fee (as defined in the Prepetition Term Loan Credit Agreement), (b) interest calculated at the Default Rate (as defined in the Prepetition Term Loan Credit Agreement) on (1) the aggregate outstanding principal amount of the Term Loan (as defined in the Prepetition Term Loan Credit Agreement) and (2) on the Early Payment Fee (collectively, the "Prepetition Term Loan Default Interest") and (c) all other amounts to be allowed by final non-appealable order of the Bankruptcy Court (if any)) (the "Prepetition Term Loan Repayment"),⁴ subject to the terms and conditions of the Ad Hoc DIP Documents and without prejudice to the rights of the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases (the "Committee") as set forth in paragraph 19;
- (iii) \$25,000,000 which was used by the Debtors on the Closing Date to fund an interest-bearing escrow account (which escrowed funds shall not be subject to any liens or security interests unless otherwise set forth in the escrow agreement governing the escrow account) with respect to the disputed Early Payment Fee, Prepetition Term Loan Default Interest and all other amounts allowed (if any) in connection with the Prepetition Term Loan Documents until a court of appropriate jurisdiction has determined, by final non-appealable order, the Prepetition Term Loan Secured Parties' entitlement to such amounts (if at all) (the "Disputed Escrow Fund"),⁵ subject to the terms and conditions of the Ad Hoc DIP Documents and without prejudice to the rights of the Committee as set forth in paragraph 19; and
- (iv) \$22,556,683 (plus additional amounts for accrued and unpaid reasonable documented fees and expenses) which was used by the Debtors on the

⁴ For the avoidance of doubt, the Prepetition Term Loan Repayment did not include any interest on the Early Payment Fee, including any interest on interest.

⁵ All fees in connection with establishing and maintaining the Disputed Escrow Fund and any related accounts therefor have been, and shall be paid by the Debtors, including, for the avoidance of doubt, the fees and expenses of the escrow agent, solely from the proceeds of the Ad Hoc DIP Facility and the Term Loan Priority Collateral.

Closing Date to refinance the outstanding balance of principal, and any accrued and unpaid fees and interest in connection with the Bayside DIP Facility (the "Bayside DIP Facility Repayment"), subject to the terms and conditions of the Ad Hoc DIP Documents;

(b) execute and deliver the Ad Hoc DIP Credit Agreement and other Ad Hoc DIP Documents and to perform such other acts as may be necessary or desirable in connection with the Ad Hoc DIP Documents;

(c) pursuant to section 364(c)(2) of the Bankruptcy Code, grant to the Ad Hoc DIP Agent, for the benefit of itself and the Ad Hoc DIP Lenders, valid, enforceable, non-avoidable automatically and fully perfected liens on and security interests in all DIP Collateral (as defined below) that (i) was not otherwise subject to a valid, perfected and unavoidable security interest or lien as of the commencement of the Chapter 11 Cases (the "Petition Date") and (ii) is not under the Interim ABL DIP Order or the Final ABL DIP Order subject to a valid, perfected and unavoidable security interest or lien of the ABL DIP Agent (as defined in the Final ABL DIP Order), for the benefit of the ABL DIP Lenders (as defined in the Final ABL DIP Order) to secure any and all DIP Obligations (as defined below), and subject to the Carve-Out (as defined below);

(d) pursuant to section 364(c)(3) of the Bankruptcy Code, grant to the Ad Hoc DIP Agent, for the benefit of itself and the Ad Hoc DIP Lenders, for the purpose of securing the DIP Obligations valid, enforceable, non-avoidable automatically and fully perfected junior liens on and security interests in all DIP Collateral that is subject only to (i) liens and security interests granted to the ABL DIP Agent and the ABL DIP Lenders pursuant to the Interim ABL DIP Order and the Final ABL DIP Order, (ii) Permitted Prior Liens (as defined below) and (iii) the Carve-Out;

(e) pursuant to section 364(d)(1) of the Bankruptcy Code, grant to the Ad Hoc DIP Agent, for the benefit of itself and the Ad Hoc DIP Lenders, for the purpose of securing the DIP Obligations, valid, enforceable, non-avoidable automatically and fully perfected first priority senior priming liens on and security interests in the Term Loan Priority Collateral (as defined in the DIP Intercreditor Agreement), wherever located, subject only to (x) Permitted Prior Liens, (y) the Carve-Out and (z) equal and ratable liens in the Term Loan Priority Collateral securing any ABL Debt (as defined in the DIP Intercreditor Agreement) granted pursuant to the Interim ABL DIP Order and Final ABL DIP Order subject to the terms of the DIP Intercreditor Agreement (which provides for, among other things, the Ad Hoc DIP Agent, for the benefit of itself and the Ad Hoc DIP Lenders, to have a senior lien on all Term Loan Priority Collateral, and the ABL DIP Agent, for the benefit of itself and the ABL DIP Lenders to have a junior lien on all Term Loan Priority Collateral) and the subordination of priority of such liens securing the ABL Debt to the extent set forth in paragraph 10 of this Final Order;

(f) pursuant to section 364(c)(1) of the Bankruptcy Code, grant all of the claims of the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders on account of the DIP Obligations allowed superpriority administrative expense claim status in each of the Chapter 11 Cases with priority over any and all administrative expenses of the kind specified in or arising under any section of the Bankruptcy Code (including, without limitation, sections 105, 326, 328, 330, 331, 503(b),

506(c), 507(a), 507(b), 546(c), 726 or 1114 of the Bankruptcy Code), subject only to (i) the Carve-Out and (ii) the grants with respect to the ABL DIP Lenders to the extent set forth in paragraph 7 of this Final Order and the Final ABL DIP Order;

(g) vacate and modify the automatic stay pursuant to section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Ad Hoc DIP Documents and this Final Order; and

(h) pay, solely from the proceeds of the Ad Hoc DIP Facility and the Term Loan Priority Collateral, the principal, interest, fees, expenses and other amounts payable (if any) under the Ad Hoc DIP Documents, including the fees and expenses set forth in the (x) School Specialty, Inc. Superpriority Secured Debtor-In-Possession Credit Facility Fee Letter, dated February 20, 2013 (the "Ad Hoc DIP Lender Fee Letter") and (y) the School Specialty, Inc. \$155,000,000 Senior Secured Debtor-In-Possession Credit Facility Commitment Letter, dated February 20, 2013 (the "Ad Hoc DIP Agent Fee Letter"), as such amounts become due and payable, including, if applicable, continuing commitment fees, closing fees, servicing fees, audit fees, structuring fees, backstopping fees, arrangement fees, syndication fees, administrative agent's fees, and fund the reasonable and documented fees and disbursements of attorneys engaged by the Ad Hoc DIP Agent and/or the Ad Hoc DIP Lenders, all to the extent provided in, and in accordance with the terms of, the Ad Hoc DIP Credit Agreement and the Ad Hoc DIP Documents;

and, the Bankruptcy Court having considered the Motion, and the exhibits attached thereto, including, without limitation, the Ad Hoc DIP Credit Agreement, the evidence proffered at the interim hearing held on February 25, 2013 (the "Interim Hearing") to consider the relief requested in the Motion, and the evidence submitted and proffered at the final hearing held on March 15, 2013 (the "Final Hearing") to consider authorizing the balance of the Ad Hoc DIP Facility under the Ad Hoc DIP Documents on a final basis, as set forth in the Motion and the Ad Hoc DIP Documents; and the Bankruptcy Court having entered on February 26, 2013 the Interim Order; and due and appropriate notice under the circumstances of the Motion, the relief requested therein, the Interim Hearing and the Final Hearing having been served by the Debtors on the forty (40) largest unsecured creditors of the Debtors, the Ad Hoc DIP Agent, the Ad Hoc DIP Lenders, the Prepetition Term Loan Secured Parties, the ABL DIP Agent (as defined below), the Prepetition ABL Agent (as defined below), the ABL DIP Lenders (as defined below), the Prepetition ABL Lenders (as defined below), the Committee, the Office of the

United States Trustee for the District of Delaware (the "U.S. Trustee"), those parties requesting notice pursuant to Bankruptcy Rule 2002, the Internal Revenue Service and the Securities and Exchange Commission in compliance with Bankruptcy Rule 4001(c) and the Local Rules (collectively, the "Notice Parties"); and the Debtors having filed executed versions of the Ad Hoc DIP Documents on March 1, 2013 [Docket No. 431]; and due and appropriate notice of the Supplemental Notice and the relief requested therein having been served by the Debtors on the Notice Parties and any party that timely filed an objection to the entry of this Final Order; and upon the record made by the Debtors and other parties in interest at the Interim Hearing and at the Final Hearing and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, THAT:

1. ***Disposition.*** The Motion is granted on a final basis in accordance with the terms of this Final Order. Any objections to the Motion with respect to the entry of this Final Order that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby denied and overruled. This Final Order shall become effective immediately upon entry. The DIP Intercreditor Agreement is a "subordination agreement" for purposes of Bankruptcy Code section 510(a).

2. ***Jurisdiction.*** The Bankruptcy Court has core jurisdiction over the Chapter 11 Cases, the Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are Bankruptcy Code sections 105, 361, 362, 363 and 364, Bankruptcy Rules 2002, 4001 and 9014 and the Local Rules.

3. **Notice.** Under the circumstances, the notice given by the Debtors of the Motion, the relief requested therein, the Interim Hearing, the Interim Order and the Final Hearing constitutes appropriate, due and sufficient notice thereof and complies with Bankruptcy Rule 4001(c) and the Local Rules, and no further notice of the relief sought at the Final Hearing is necessary or required.

4. **Debtors' Stipulations.** Without prejudice to the rights of any other party (but which are subject to the limitations thereon contained in paragraph 19 herein), all of the Debtors' stipulations set forth in paragraph 4 of the Final ABL DIP Order with respect to the Prepetition Term Loan Secured Parties, the Prepetition Term Loan Documents, the Prepetition Term Loan Security Interests (as defined in the Final ABL DIP Order) and the Prepetition Term Loan Debt (as defined in the Final ABL DIP Order) are expressly incorporated by reference as if fully set forth herein. For the avoidance of doubt, nothing in this paragraph 4, or in paragraph 4 of the Interim Order, shall limit the ability of the Committee to challenge such stipulations related to the Prepetition Term Loan Secured Parties, the Prepetition Term Loan Documents, the Prepetition Term Loan Security Interests and the Prepetition Term Loan Debt, subject to the limitations thereon contained in paragraph 19 herein.

5. **Findings Regarding the Ad Hoc DIP Facility.**

(a) Good cause has been shown for the entry of this Final Order.

(b) The Debtors need to obtain the Ad Hoc DIP Facility to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures and to satisfy other working capital and operational needs. The access of the Debtors to sufficient working capital and liquidity through the incurrence of new indebtedness

for borrowed money and other financial accommodations is vital to the preservation and maintenance of the going concern values of the Debtors and to a successful reorganization or sale of the Debtors. Moreover, entry of the Interim Order allowed the Debtors to make the Bayside DIP Facility Repayment and the Prepetition Term Loan Repayment, and to establish and fund the Disputed Escrow Fund.

(c) Under the circumstances, the Debtors are unable to obtain financing on more favorable terms from sources other than the Ad Hoc DIP Lenders under the Ad Hoc DIP Documents and are unable to obtain adequate unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors are also unable to obtain secured credit allowable under Bankruptcy Code sections 364(c)(1), 364(c)(2) and 364(c)(3) for the purposes set forth in the Ad Hoc DIP Credit Agreement without the Debtors granting to the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders, subject to the Carve-Out as provided for herein, the DIP Liens (as defined below) and the Superpriority Claims (as defined below) under the terms and conditions set forth in the Interim Order, this Final Order and in the Ad Hoc DIP Documents.

(d) The terms of the Ad Hoc DIP Documents are fair and reasonable, reflect the Debtors' exercise of prudent business judgment and constitute reasonably equivalent value and fair consideration.

(e) The entry of this Final Order is consistent with the DIP Intercreditor Agreement and shall not be deemed to violate any provision of the DIP Intercreditor Agreement.

(f) The Ad Hoc DIP Documents have been negotiated in good faith and at arms' length among the Debtors, the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders, and all of the Debtors' obligations and indebtedness arising under, in respect of or in connection with the Ad

Hoc DIP Facility and the Ad Hoc DIP Documents (all of the foregoing collectively, the “DIP Obligations”), shall be deemed to have been extended by the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders and their affiliates in good faith, as that term is used in Bankruptcy Code section 364(e), and in express reliance upon the protections offered by Bankruptcy Code section 364(e), and the Ad Hoc DIP Facility, the DIP Liens and the Superpriority Claims shall be entitled to the full protection of Bankruptcy Code section 364(e) in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(g) Consummation of the Ad Hoc DIP Facility in accordance with this Final Order and the Ad Hoc DIP Documents is therefore in the best interests of the Debtors’ estates.

6. *Authorization for the Ad Hoc DIP Credit Agreement and the Ad Hoc DIP Documents.*

(a) The Debtors were, by the Interim Order, and hereby are, authorized to execute and enter into the Ad Hoc DIP Documents, including the Ad Hoc DIP Credit Agreement, and the Ad Hoc DIP Credit Agreement and the other Ad Hoc DIP Documents are hereby approved on a final basis. The Ad Hoc DIP Credit Agreement and this Final Order shall govern the financial and credit accommodations to be provided to the Debtors by the Ad Hoc DIP Lenders; *provided*, that in the event of a conflict between the Ad Hoc DIP Credit Agreement and this Final Order, this Final Order shall control.

(b) The Borrowers are hereby authorized to borrow money pursuant to the Ad Hoc DIP Credit Agreement, and the Borrowers and the Guarantors are hereby authorized to guaranty such borrowings, up to an aggregate principal or face amount of \$155,000,000 (including, for the avoidance of doubt, any amounts previously borrowed pursuant to the terms of the Interim Order and as set forth in subparagraph (c) below) in accordance with the terms of this Final Order and

the Ad Hoc DIP Credit Agreement (and subject to the Approved Budget⁶ provided for under the Ad Hoc DIP Credit Agreement) to, among other things, (x) provide working capital for the Borrowers and the Guarantors (including, without limitation, foreign affiliates guaranteeing the DIP Obligations) and (y) pay interest, fees and expenses in accordance with this Final Order and the Ad Hoc DIP Documents (including, for the avoidance of doubt, the fees and expenses of the Ad Hoc DIP Lenders' professionals, whether incurred pre- or postpetition, as provided in paragraph 13).

(c) The terms of the Interim Order are hereby ratified, confirmed, and approved on a final basis, and all borrowings and payments made thereunder to, among other things, (i) remit the Prepetition Term Loan Repayment, (ii) fund and maintain the Disputed Escrow Fund and (iii) remit the Bayside DIP Facility Repayment, in each case, shall be deemed made in accordance with and pursuant to this Final Order (and, in each case, subject to any limitations on borrowings under the applicable Ad Hoc DIP Documents and in accordance with the Approved Budget) and shall be subject to this Final Order.

(d) The proceeds of any borrowing under the Ad Hoc DIP Facility and the proceeds of any sales of Term Loan Priority Collateral shall be deposited into a segregated account of the Borrower (the "Term Loan Priority Collateral Deposit Account") pursuant to the terms and conditions set forth in the Ad Hoc DIP Credit Agreement, which account shall not be governed by the *Order (I) Approving Continued Use of the Debtors' Existing Cash Management System, (II) Authorizing Use of Existing Bank Accounts and Checks, (III) Waiving the Requirements of 11 U.S.C. 345(b) on an Interim Basis, and (IV) Granting Administrative Expense Status to Postpetition Intercompany Claims* [Docket No. 74] or subject to any liens of the ABL DIP Agent

⁶ The Approved Budget is attached hereto as Exhibit A.

or the ABL DIP Lenders (so long as no proceeds of ABL Debt or ABL Priority Collateral (as defined in the DIP Intercreditor Agreement) are deposited therein or credited thereto and, in such event, only to the extent of such proceeds), as the case may be; *provided, however*, that nothing in this Final Order shall impair or otherwise modify the rights of the ABL DIP Lenders solely with respect to any identifiable proceeds of the ABL Debt or the ABL Priority Collateral deposited or credited to such Term Loan Priority Collateral Deposit Account. In accordance with paragraph 16 below, the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders were, by the Interim Order, and hereby are, authorized, but not required, to take possession of or control over (as defined in the Uniform Commercial Code as in effect from time to time in the State of New York), or take any other action in order to validate and perfect the security interests granted to them in the Term Loan Priority Collateral Deposit Account thereunder or hereunder. Whether or not the Ad Hoc DIP Agent, for the benefit of the Ad Hoc DIP Lenders shall, in its sole discretion, choose to take possession of or control over, or otherwise confirm perfection of the security interests granted to it thereunder or hereunder, such security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge dispute or subordination, at the time and on the date of entry of the Interim Order in favor of the Ad Hoc DIP Agent, for the benefit of the Ad Hoc DIP Lenders. Under no circumstances may any cash, funds, securities, financial assets or other property held in or credited to the Term Loan Priority Collateral Deposit Account be used to pay any prepetition obligations or for any purpose except as permitted under the Interim Order, this Final Order or as otherwise expressly permitted by the Bankruptcy Court pursuant any order of the Bankruptcy Court (including any order made by the Bankruptcy Court prior to the entry of this Final Order).

(e) In furtherance of the foregoing and without further approval of the Bankruptcy Court, each Debtor was, by the Interim Order, and hereby is, authorized and directed to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to use proceeds from the Ad Hoc DIP Facility or the Term Loan Priority Collateral and to pay all fees and expenses, that may be reasonably required or necessary for the Debtors' performance of their obligations under the Ad Hoc DIP Facility, including, without limitation:

(i) the execution, delivery and performance of the Ad Hoc DIP Documents, including, without limitation, the Ad Hoc DIP Credit Agreement, any security and pledge agreements, any mortgages contemplated thereby and the letter agreements referred to in clause (iii) below;

(ii) the execution, delivery and performance of one or more amendments, waivers, consents or other modifications to and under the Ad Hoc DIP Documents for, among other things, the purpose of adding additional financial institutions as Ad Hoc DIP Lenders and reallocating the commitments for the Ad Hoc DIP Facility among the Ad Hoc DIP Lenders, in each case in such form as the Debtors and the Ad Hoc DIP Agent may agree; *provided*, that no further approval of the Bankruptcy Court shall be required for amendments, waivers, consents or other modifications to and under the Ad Hoc DIP Documents (or any non-material fees paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the commitments, the rate of interest or the letter of credit fees payable thereunder; *provided, however*, that the Debtors shall provide notice of any modification or amendment to the Ad Hoc DIP Credit Agreement to counsel to the Committee, the U.S. Trustee and counsel to the ABL DIP Agent, each of whom shall have five (5) days from the date of such notice within which to object in writing to any material modification or amendment. If the Committee, the U.S. Trustee or the ABL DIP Agent timely objects to any such material modification or amendment to the Ad Hoc DIP Credit Agreement, such material modification or amendment shall only be permitted pursuant to an order of the Bankruptcy Court;

(iii) the non-refundable payment to the Ad Hoc DIP Agent or Ad Hoc DIP Lenders, as the case may be, solely from the proceeds of the Ad Hoc DIP Facility or the Term Loan Priority Collateral, of the fees referred to in the Ad Hoc DIP Credit Agreement (and in the Ad Hoc DIP Lender Fee Letter and the Ad Hoc DIP Agent Fee Letter), and the reasonable costs and expenses as may be due from time to time thereunder; and

(iv) the performance of all other acts required under or in connection with the Ad Hoc DIP Documents.

(f) The Ad Hoc DIP Credit Agreement and the other Ad Hoc DIP Documents were validly executed and delivered, and constitute valid, binding and non-avoidable obligations of the Debtors enforceable against each Debtor party thereto in accordance with their respective terms and the terms of this Final Order for all purposes during the Chapter 11 Cases, any subsequently converted case of any Debtor under chapter 7 of the Bankruptcy Code or after the dismissal of any of the Chapter 11 Cases. No obligation, payment, transfer or grant of security under the Ad Hoc DIP Credit Agreement, the other Ad Hoc DIP Documents or this Final Order shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under Bankruptcy Code sections 502(d), 548 or 549 or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment or counterclaim. The Debtors shall use the Ad Hoc DIP Facility solely as provided in the Interim Order, this Final Order and the Ad Hoc DIP Documents. From and after the Petition Date, the Ad Hoc DIP Facility shall not, directly or indirectly, be used to pay expenses of the Debtors or otherwise disbursed except for those expenses and/or disbursements that are expressly permitted under the Approved Budget and the Ad Hoc DIP Documents.

(g) Each Guarantor agrees that (i) its guarantee obligations shall be, and is, absolute and unconditional for all purposes in the Chapter 11 Cases and is a present and continuing guarantee of payment and not of collection, and (ii) its obligations under this Final Order and each Ad Hoc DIP Document shall not be discharged until the indefeasible payment, in full, in cash of the DIP Obligations (unless otherwise agreed to by the Ad Hoc DIP Lenders), and the termination of the lending commitments under the Ad Hoc DIP Documents.

7. ***Superpriority Claims.*** Subject to the rights of the ABL DIP Lenders granted pursuant to the Final ABL DIP Order, pursuant to Bankruptcy Code section 364(c)(1), all of the DIP Obligations shall constitute allowed senior administrative expense claims against each of the Debtors (the “Superpriority Claims”) with priority over any and all other administrative expenses (other than 364(c)(1) claims in favor of the ABL DIP Lenders), adequate protection claims, diminution claims and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) or 507(b), and over any and all administrative expenses or other claims arising under Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 or 1114, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall for purposes of Bankruptcy Code section 1129(a)(9)(A) be considered administrative expenses allowed under Bankruptcy Code section 503(b), and which shall be payable from and have recourse to all pre- and postpetition property of the Debtors and all proceeds thereof, including, without limitation, all Avoidance Actions (as defined below), subject only to the payment of the Carve-Out to the extent specifically provided for herein. Subject to the terms of the DIP Intercreditor Agreement, the Superpriority Claims granted hereunder and under the Interim Order to the Ad Hoc DIP Lenders shall be *pari passu* with the Superpriority Claims granted to the ABL DIP Lenders.

8. ***Carve-Out.***

(a) For the purposes of this Final Order, the term “Carve-Out” shall mean the following: (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the United States Trustee under 28 U.S.C. § 1930(a) plus interest pursuant to 31 U.S.C. §

3717; (ii) all reasonable fees and expenses incurred by a trustee under Bankruptcy Code section 726(b); (iii) to the extent allowed by the Bankruptcy Court at any time, all accrued and unpaid fees, disbursements, costs and expenses incurred by professionals or professional firms retained by the Debtors and the Committee (collectively, the “Professionals”) at any time before or on the date of the delivery by the Ad Hoc DIP Agent, at the direction of the required Ad Hoc DIP Lenders, of a Carve-Out Notice (as defined below), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Notice; and (iv) to the extent allowed by the Bankruptcy Court at any time, all unpaid fees, disbursements, costs and expenses incurred by Professionals after the date that is one day after the date of the delivery by the Ad Hoc DIP Agent, at the direction of the required Ad Hoc DIP Lenders, of the Carve-Out Notice, in an aggregate amount not to exceed \$750,000 (the amount set forth in this clause (iv) being the “Post Carve-Out Notice Cap”). For the avoidance of doubt, and notwithstanding anything to the contrary in the ABL DIP Facility (as defined in the Final ABL DIP Order) or any order with respect thereto, with respect to the “Carve-Out” as defined herein pursuant to the Ad Hoc DIP Documents, the payment of all accrued and unpaid fees, disbursements, costs and expenses incurred by Professionals pursuant to clause (iii) above shall not be subject to any budget, including, without limitation, the Approved Budget. For purposes of the foregoing, “Carve-Out Notice” shall mean a written notice delivered by the Ad Hoc DIP Agent, at the direction of the required Ad Hoc DIP Lenders, to the Debtors and their counsel, counsel for the ABL DIP Agent, the U.S. Trustee, and counsel to the Committee, which notice may be delivered following the occurrence of an Event of Default under the Ad Hoc DIP Documents, and stating that the Post Carve-Out Notice Cap has been invoked. Except as otherwise provided herein, as among the DIP Collateral, the Carve-Out, if and to the extent invoked pursuant to this Final Order, shall be allocated one-half against and

funded from the ABL Priority Collateral and one-half against and funded from the Term Loan Priority Collateral.

(b) For the avoidance of doubt, the Carve-Out shall be senior to all liens and claims (including, without limitation, administrative and superpriority claims) securing the DIP Obligations and any and all other forms of adequate protection, liens, security interests and other claims granted herein to the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders, but shall not have any priority over the liens and claims in favor of the ABL DIP Lenders under Bankruptcy Code section 364(c) or the ABL Priority Collateral (except as otherwise provided in the Final ABL DIP Order). For the avoidance of doubt, that portion of the Carve-Out relating to fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the United States Trustee under 28 U.S.C. § 1930(a) plus interest pursuant to 31 U.S.C. § 3717 shall have priority over the liens and claims in favor of the ABL DIP Lenders and the ABL Priority Collateral.

(c) Nothing herein shall (i) be construed as consent by the Ad Hoc DIP Agent to the allowance of any fees, costs, expenses, reimbursements or compensation sought by any such Professionals, (ii) affect the right of the Ad Hoc DIP Agent or any party in interest to object to the allowance and payment of such fees, expenses, reimbursements or compensation sought by any such Professionals or (iii) affect the right of the Ad Hoc DIP Agent to the return of any portion of the Carve-Out that is funded under the Ad Hoc DIP Documents with respect to fees and expenses for a Professional that are approved on an interim basis but are later denied on a final basis.

(d) Prior to the occurrence of an Event of Default, the Debtors are authorized to pay compensation and reimbursement of fees and expenses that are authorized to be paid under sections 330 and 331 of the Bankruptcy Code pursuant to an order of the Bankruptcy Court, as

the same may be due and payable, and such payments shall not reduce the Post Carve-Out Notice Cap. Upon receipt of the Carve-Out Notice, the right of the Debtors to pay Professionals' fees and expenses outside of subparagraph (a) above shall terminate, and, after receipt of the Carve-Out Notice, the Debtors shall provide immediate notice to all Professionals informing them that such notice was delivered and further advising them that the Debtors' ability to pay such Professionals pursuant to subparagraph (a)(iv) above is subject to and limited by the Post Carve-Out Notice Cap; *provided, however*, that all accrued and unpaid fees, disbursements, costs and expenses subject to subparagraph (a)(iii) shall remain subject to and payable pursuant to any interim compensation procedures authorized by the Bankruptcy Court or otherwise payable by final order of the Bankruptcy Court.

9. ***DIP Liens.*** As security for the DIP Obligations, effective and perfected upon the date of the Interim Order and without the necessity of the execution, recordation of filings by the Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders of or over any DIP Collateral, the following security interests and liens were, by the Interim Order, and hereby are, granted by the Debtors to the Ad Hoc DIP Agent for its own benefit and the benefit of the Ad Hoc DIP Lenders (all property identified in subparagraphs (a), (b) and (c) below being collectively referred to as the "DIP Collateral"), subject, only in the event of the occurrence and during the continuance of an Event of Default, to the payment of the Carve-Out (all such liens and security interests granted to the Ad Hoc DIP Agent, for its own benefit and the benefit of the Ad Hoc DIP Lenders, pursuant to the Interim Order, this Final Order and the Ad Hoc DIP Documents, the "DIP Liens");

(a) *First Lien on Unencumbered Property.* Subject to the terms of the DIP Intercreditor Agreement, pursuant to Bankruptcy Code section 364(c)(2), a valid, binding, continuing, enforceable, fully perfected senior security interest in and lien upon all pre- and postpetition property of the Debtors or their estates, whether existing on the Petition Date or thereafter acquired, that, (i) on or as of the Petition Date was not subject to any valid, perfected and non-avoidable liens and (ii) is not under the Interim ABL DIP Order or the Final ABL DIP Order subject to a valid, perfected and unavoidable security interest or lien of the ABL DIP Agent, for the benefit of the ABL DIP Lenders (collectively, "Unencumbered Property"), including, without limitation, any such unencumbered cash of the Debtors (whether maintained with the Ad Hoc DIP Agent, the ABL DIP Agent or otherwise) and any investment of such cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property, commercial tort claims, equity interests, and the proceeds of all the foregoing. Unencumbered Property shall also include the Debtors' claims and causes of action under Bankruptcy Code sections 502(d), 544, 545, 547, 548, 549, 550, and 553 and any other avoidance actions under the Bankruptcy Code and the proceeds thereof and property received thereby whether by judgment, settlement or otherwise (collectively, "Avoidance Actions"), other than such Avoidance Actions that are subject to a valid, perfected and unavoidable security interest or lien of the ABL DIP Agent, for the benefit of the ABL DIP Lenders under the Interim ABL DIP Order or the Final ABL DIP Order.

(b) *Liens Equal and Ratable to Certain Other Liens.* Except as set forth in paragraph 10 herein and subject to the DIP Intercreditor Agreement (which provides for, among other

things, the Ad Hoc DIP Agent, for the benefit of itself and the Ad Hoc DIP Lenders, to have a senior lien on all Term Loan Priority Collateral, and the ABL DIP Agent, for the benefit of itself and the ABL DIP Lenders to have a junior lien on all Term Loan Priority Collateral), pursuant to Bankruptcy Code section 364(d)(1), a valid, binding, continuing, enforceable, fully perfected priority senior priming security interest in and lien upon all Term Loan Priority Collateral equal and ratable to the lien and security interest granted in such Term Loan Priority Collateral to secure the ABL Debt pursuant to the Interim ABL DIP Order and Final ABL DIP Order.

(c) *Liens Junior to Certain Other Liens.* Except as otherwise set forth in paragraph 10 herein, pursuant to Bankruptcy Code section 364(c)(3), a valid, binding, continuing, enforceable, fully perfected security interest in and lien upon all pre- and postpetition property of the Debtors (other than the property described in subparagraphs (a) or (b) of this paragraph 9, as to which the liens and security interests in favor of the Ad Hoc DIP Agent will be as described in such subparagraphs), whether now existing or hereafter acquired, that is subject to (i) liens and security interests granted to the ABL DIP Agent and the ABL DIP Lenders pursuant to the Interim ABL DIP Order and the Final ABL DIP Order and (ii) valid, perfected and unavoidable liens in existence immediately prior to the Petition Date or to valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by Bankruptcy Code section 546(b), which security interests and liens in favor of the Ad Hoc DIP Agent are junior to such valid, perfected and unavoidable liens under clauses (i) and (ii) above; *provided*, that the DIP Liens shall be subject to any asserted tax liens solely to the extent that such tax liens (1) had priority under applicable law over the prepetition liens granted to the Prepetition Secured Parties, (2) were not subordinated by agreement or applicable law, and (3) were non-avoidable, valid, properly perfected and enforceable as of the Petition

Date; *provided, further*, that the DIP Liens shall not be deemed to have priority over any valid, enforceable, non-avoidable right of setoff in favor of American Art Clay Co., Inc., Acco Brands USA LLC, Mead Products LLC, 3M Company and Dixon Ticonderoga (collectively, the "Objecting Vendor Parties") arising under Bankruptcy Code section 553 solely to the extent that (1) such right of setoff constitutes a "lien" within the meaning of such term as used in Bankruptcy Code section 364(c)(3) and (2) the prepetition liens granted to the Prepetition Secured Parties were otherwise subject to such right of setoff in accordance with applicable law (the foregoing liens in this subparagraph (c), the "Permitted Prior Liens"). Subject to any further order of Bankruptcy Court and notwithstanding anything to the contrary contained herein, for purposes of this Final Order, no liens or other rights or interests granted or permitted under this Final Order shall impair, be senior to, or in any way prime the liens and right of setoff of Comerica Bank under that certain Pledge and Security Agreement (re: deposit account) dated May 2012 by School Specialty, Inc. in favor of Comerica Bank pledging the funds in Business Money Market Account No. 1852879814 in the name of School Specialty, Inc., maintained at Comerica Bank (the "Comerica Account") and all identifiable proceeds of the Comerica Account, which total \$1,458,537.10 as of the Petition Date, plus postpetition interest accruing on the Comerica Account, which funds shall continue to secure the reimbursement obligations of School Specialty, Inc. to Comerica Bank under the Letter of Credit Applications and Reimbursement Agreements, or otherwise, for any draws under Comerica Bank letter of credit no. 5183 in the amount of \$700,000, issued for the benefit of DEI CSEP or Comerica Bank letter of credit no. 5184 in the amount of \$755,000, issued for the benefit of Travelers Insurance Company. Nothing in this Final Order shall alter or affect any right, claim or defense of any of the Objecting Vendor Parties based upon reclamation, setoff or recoupment, if any; *provided*,

however, that (a) the Ad Hoc DIP Agent and Ad Hoc DIP Lenders shall be deemed to have the rights of the holder of a security interest under Bankruptcy Code section 546(c); (b) the Ad Hoc DIP Agent and Ad Hoc DIP Lenders, as the holder of a security interest under 546(c), shall have the same rights against goods subject to the Objecting Vendor Parties' claims as would the Prepetition Term Loan Agent and Prepetition Term Loan Lenders as of the Petition Date; (c) the Ad Hoc DIP Lenders reserve all rights to object to any reclamation, setoff or recoupment claims; and (d) this Final Order constitutes notice of the security interest of the Ad Hoc DIP Agent and Ad Hoc DIP Lenders to each account Debtor for purposes of applicable non-bankruptcy law regarding postpetition setoff rights.

(d) *Liens Senior to Certain Other Liens.* The DIP Liens shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under Bankruptcy Code section 551, (ii) any liens arising after the Petition Date (other than, subject to the terms of and solely to the extent provided in the DIP Intercreditor Agreement, the liens granted to secure the ABL Debt pursuant to the Interim ABL DIP Order and Final ABL DIP Order) including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors to the extent permitted by applicable non-bankruptcy law or (iii) any intercompany or affiliate liens of the Debtors.

10. *Priority of DIP Liens; Bayside Replacement Lien.*

(a) Notwithstanding anything to the contrary herein or in the Interim Order, and subject to the terms of the DIP Intercreditor Agreement, (i) the DIP Liens granted hereunder, under the Interim Order and/or under the Ad Hoc DIP Documents to the Ad Hoc DIP Agent, for the benefit of the Ad Hoc DIP Lenders, in the DIP Collateral constituting ABL Priority

Collateral shall be immediately junior in priority and subject to the liens granted to secure the ABL Debt under the Interim ABL DIP Order and Final ABL DIP Order in the DIP Collateral constituting ABL Priority Collateral, and (ii) the liens granted to secure the ABL Debt under the Interim ABL DIP Order and Final ABL DIP Order in the DIP Collateral constituting Term Loan Priority Collateral shall be immediately junior in priority and subject to the DIP Liens granted hereunder and under the Ad Hoc DIP Documents to the Ad Hoc DIP Agent, for the benefit of the Ad Hoc DIP Lenders, in the DIP Collateral constituting Term Loan Priority Collateral.

(b) Notwithstanding anything to the contrary herein, in the Interim Order, in the Interim ABL DIP Order or the Final ABL DIP Order, any and all liens and security interests (i) on or in the DIP Collateral granted pursuant to the Interim ABL DIP Order, the Final ABL DIP Order and/or the documentation for or evidencing the Bayside DIP Facility (the “Bayside DIP Documents”) to any agent under the Bayside DIP Documents (the “Bayside DIP Agent”) or the lenders thereunder (the “Bayside DIP Lenders”) and together with the Bayside DIP Agent, the “Bayside DIP Parties”), and (ii) granted under the Prepetition Term Loan Credit Agreement or any other Prepetition Term Loan Document to the Prepetition Term Loan Secured Parties, in the case of each of clauses (i) and (ii) above, were, by the Interim Order, and hereby are, deemed to be, and are forever, released and discharged, without limitation, and without any further action by any party. In connection with the foregoing, the Prepetition Term Loan Secured Parties shall be granted a junior third lien effective as of the date of the Prepetition Term Loan Agreement (the “Junior Third Lien”) on DIP Collateral to secure the payment of any amounts to which it is determined (by final non-appealable order of a court of competent jurisdiction) the Prepetition Term Loan Secured Parties are entitled to pursuant to the Prepetition Term Loan Documents to the extent such amounts are not already provided for in the Disputed Escrow Fund (the

“Allowed Prepetition Term Loan Amounts”). The Junior Third Lien shall be junior in all respects only to (1) the Carve-Out, (2) Permitted Prior Liens, (3) the DIP Liens on DIP Collateral granted to the ABL DIP Agent for the benefit of the ABL DIP Lenders and (4) the DIP Liens on DIP Collateral granted to the Ad Hoc DIP Agent for the benefit of the Ad Hoc DIP Lenders. The Prepetition Term Loan Secured Parties shall (x) have no rights with respect to the DIP Collateral other than to hold the Junior Third Lien and (y) not be entitled to take any action (including any enforcement action) with respect to any lien, claim or rights and remedies in respect of the DIP Collateral without further order of the Bankruptcy Court, in each case, unless and until all amounts due and owing under the ABL DIP Facility and the Ad Hoc DIP Facility are paid in full in accordance with the terms of their respective documents.

(c) As set forth in paragraph 31 of the Final ABL DIP Order, from and after the First Amendment Effective Date (as defined in the Final ABL DIP Order), the Ad Hoc DIP Agent shall be deemed a party to, and bound by, the terms and provisions of the DIP Intercreditor Agreement, as amended by the Final ABL DIP Order. The Ad Hoc DIP Facility shall be deemed a Refinance (as defined in the DIP Intercreditor Agreement) of the Bayside DIP Facility under and in accordance with section 5.3(b) of the DIP Intercreditor Agreement, and the obligations under the Ad Hoc DIP Facility shall be deemed to be Term Loan Debt (under and as defined in the DIP Intercreditor Agreement) and the Ad Hoc DIP Agent shall be deemed to be the Term Loan Agent (under and as defined in the DIP Intercreditor Agreement), in each case under and in accordance with section 5.5(b) of the DIP Intercreditor Agreement, in full refinancing and replacement of the Bayside DIP Documents and Bayside DIP Agent, respectively.

(d) Upon the occurrence of a Priority Collateral Event (as defined in the Final ABL DIP Order), the rights of the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders in all Term Loan

Priority Collateral shall be subject to the terms and conditions set forth in paragraph 31 of the Final ABL DIP Order.

(e) For purposes of this paragraph 10, all references to the Final ABL DIP Order shall be to such order as in effect on the date of the Interim Order without giving effect to any subsequent amendments or modifications unless consented to by the Ad Hoc DIP Lenders, in writing.

11. *Protection of Ad Hoc DIP Lenders' Rights.*

(a) All DIP Collateral shall be free and clear of all liens, claims and encumbrances, except for those liens, claims and encumbrances expressly permitted under the Ad Hoc DIP Documents or this Final Order.

(b) The automatic stay provisions of Bankruptcy Code section 362 are vacated and modified to the extent necessary to permit the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders to exercise: (i) immediately upon the occurrence of an Event of Default, all rights and remedies under the applicable Ad Hoc DIP Documents (other than those rights and remedies against the DIP Collateral as provided in clause (ii) below), including leave to cease making financial accommodations to the Debtors, accelerate any or all of the DIP Obligations and declare such DIP Obligations to be immediately due and payable in full, in cash, and the Debtors shall use the Ad Hoc DIP Facility proceeds only with the written consent of the Ad Hoc DIP Agent and only to the extent required to avoid irreparable damage to the Debtors and their estates; and (ii) upon the occurrence and during the continuance of an Event of Default and the giving of five (5) business days' prior written notice to the Debtors (with a copy to counsel to the ABL DIP Agent, the Committee and to the U.S. Trustee) to the extent provided for in any Ad Hoc DIP Document, all rights and remedies against the DIP Collateral provided for in any Ad Hoc DIP Document

(including, without limitation, the right to foreclose upon the DIP Collateral and the right to set off against accounts maintained by the Debtors with the Ad Hoc DIP Agent or any Ad Hoc DIP Lender or any affiliate thereof). In any hearing regarding any exercise of rights or remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred and is continuing, and the Debtors hereby waive their right to seek relief, including, without limitation, under Bankruptcy Code section 105, to the extent such relief would in any way impair or restrict the rights and remedies of the Ad Hoc DIP Agent or any Ad Hoc DIP Lender set forth in the Interim Order, this Final Order or the Ad Hoc DIP Documents. The delay or failure to exercise rights and remedies under the applicable Ad Hoc DIP Documents, the Interim Order or this Final Order by the Ad Hoc DIP Agent or any Ad Hoc DIP Lender shall not constitute a waiver of the Ad Hoc DIP Agent's or such Ad Hoc DIP Lender's rights hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed in accordance with the terms of the applicable Ad Hoc DIP Documents.

12. *Limitation on Charging Expenses Against Collateral.* Except to the extent of the Carve-Out, no costs or expenses of administration of the Chapter 11 Cases or any future proceeding that may result therefrom, including liquidation in chapter 7 or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral pursuant to Bankruptcy Code sections 506(c), 552(b) or 105(a) or any similar principle of law without the prior written consent of the Ad Hoc DIP Lenders, and no such consent shall be implied from any other action, inaction, or acquiescence by the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders.

13. Fees and Expenses of Ad Hoc DIP Agent, Ad Hoc DIP Lenders and Prepetition Term Loan Secured Parties.

(a) Payable solely from proceeds of the Ad Hoc DIP Facility or Term Loan Priority Collateral, the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders shall receive from the Debtors current cash payments of all fees and expenses payable to the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders, as applicable, under the Ad Hoc DIP Documents, including, but not limited to, the reasonable fees and disbursements of counsel, financial and other consultants for the Ad Hoc DIP Agent or Ad Hoc DIP Lenders promptly upon receipt of invoices therefor (subject in all respects to applicable privilege or work product doctrines) and without the necessity of filing motions or fee applications, including such amounts arising before and after the Petition Date; *provided, however*, that the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders shall submit copies of their respective professional fee invoices for postpetition fees and expenses to the Debtors, and the Debtors shall send copies of such invoices to the U.S. Trustee and the Committee within two (2) business days from receipt thereof, and the U.S. Trustee and the Committee shall have ten (10) days from receipt thereof to object in writing to the reasonableness of such invoices; to the extent that the U.S. Trustee or the Committee so objects to any such invoices, the Debtors shall remit payment on account of the portion of such invoices to which there has been no objection, and payment of the allegedly unreasonable portion of such invoices will be subject to review by the Bankruptcy Court; *provided, further, however*, if applicable, that such invoices may be redacted to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or any benefits of the attorney work product doctrine; *provided, however*, that copies of invoices in their non-redacted form shall be provided to the U.S. Trustee, to be kept

confidential under section 107(c)(3)(B) of the Bankruptcy Code, the provision of which shall not constitute a waiver of any attorney-client privilege or any benefits of the attorney work product doctrine.

(b) The reasonable fees and expenses of the Prepetition Term Loan Secured Parties shall be paid by the Debtors solely from proceeds of the Ad Hoc DIP Facility or Term Loan Priority Collateral until entry of an order providing that the Prepetition Term Loan Secured Parties are not entitled, in accordance with subparagraph (c) hereof, to the payment of such fees and expenses (the "Bayside Fee Order"); *provided, however*, that any such motion or other action seeking a Bayside Fee Order must be filed after the expiration of the challenge period set forth in paragraph 19 herein. In the event that a Bayside Fee Order is overturned on appeal, such reasonable fees and expenses accrued between the time of entry of the Bayside Fee Order and entry of the appellate order overturning the Bayside Fee Order shall be paid from the Disputed Escrow Fund, or by the Debtors or the reorganized Debtors, as the case may be. The Prepetition Term Loan Secured Parties shall submit copies of their respective reasonably-detailed professional fee invoices for reasonable fees and expenses to the Debtors, the ABL DIP Agent, the Ad Hoc DIP Agent, the Committee and the U.S. Trustee, each of whom shall have ten (10) days from receipt thereof to object in writing to the reasonableness of such invoices. If no objection has been raised, the Prepetition Term Loan Secured Parties shall be entitled to the payment of such reasonable fees and expenses as set forth in this subparagraph (b). To the extent that the Debtors, the ABL DIP Agent, the Ad Hoc DIP Agent, the Committee or the U.S. Trustee so object to any such invoices of the Prepetition Term Loan Secured Parties, the Debtors shall remit payment on account of the portion of such invoices to which there has been no objection,

and payment of the allegedly unreasonable portion of such invoices will be subject to review by the Bankruptcy Court.

(c) All reasonable fees and expenses earned and paid to the Prepetition Term Loan Secured Parties as set forth in subparagraph (b) above prior to the entry of a Bayside Fee Order shall not be subject to disgorgement unless and until any of the liens and security interests granted to the Prepetition Term Loan Secured Parties are determined to be invalid, and the remaining collateral securing the Prepetition Term Loan Secured Parties' prepetition indebtedness, if any, is valued at an amount that is less than the indebtedness of the Prepetition Term Loan Secured Parties, including any and all amounts that may be awarded to the Prepetition Term Loan Secured Parties on account of the Early Payment Fee and Prepetition Term Loan Default Interest and interest on such amounts.

14. **Interest.** The DIP Obligations shall bear interest at the applicable rate (including any applicable default rate after the occurrence of an Event of Default set forth in the Ad Hoc DIP Documents), and be due and payable in accordance with this Final Order and the Ad Hoc DIP Documents, in each case without further notice, motion or application to, order of, or hearing before, the Bankruptcy Court. Subject to paragraph 11, in any hearing regarding the occurrence of an Event of Default or the entitlement to, or payment of, interest at the applicable default rate, such interest at the applicable default rate shall be immediately due and payable from the date of such Event of Default upon the determination of a court of competent jurisdiction of the occurrence of such Event of Default or entitlement to the payment of interest at the applicable default rate, notwithstanding any right to appeal such determination.

15. **Financial Reporting.** The Debtors shall provide the Ad Hoc DIP Agent and the Committee with financial and other reporting as described in the Ad Hoc DIP Documents.

16. *Perfection of DIP Liens.*

(a) Subject to the provisions of paragraph 9(b) above, the Debtors, the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over, or take any other action in order to validate and perfect the liens and security interests granted to them hereunder or under the Interim Order. Whether or not the Ad Hoc DIP Agent on behalf of the Ad Hoc DIP Lenders shall, in its sole discretion, choose to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to them hereunder or under the Interim Order, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and on the date of entry of the Interim Order. The Debtors shall execute and deliver to the Ad Hoc DIP Agent all such agreements, financing statements, instruments and other documents as the Ad Hoc DIP Agent may reasonably request to more fully evidence, confirm, validate, perfect, preserve and enforce the DIP Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(b) A certified copy of this Final Order may, in the discretion of the Ad Hoc DIP Agent, 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 Final Order for filing and recording.

(c) After notice to any affected landlord or other parties, any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more

landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign or otherwise transfer any such leasehold interest, or the proceeds thereof, or other postpetition collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code. Any such provision shall have no force and effect with respect to the transactions granting postpetition liens, in such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor, in favor of the Ad Hoc DIP Lenders in accordance with the terms of the Ad Hoc DIP Documents or this Final Order.

17. *Preservation of Rights Granted Under this Final Order.*

(a) Subject to the terms of the DIP Intercreditor Agreement, no claim or lien having a priority superior to or *pari passu* with those granted by the Interim Order or this Final Order to the Ad Hoc DIP Agent, the Ad Hoc DIP Lenders or the Prepetition Term Loan Secured Parties shall be granted or allowed until the occurrence of (i) the payment in full in cash or immediately available funds of all of the DIP Obligations, (ii) the termination or expiration of all commitments to extend credit to Debtors, (iii) the cash collateralization in respect of any asserted or threatened claims, demands, actions, suits, proceedings, investigations, liabilities, fines, costs, penalties, or damages for which any Ad Hoc DIP Lender or the Ad Hoc DIP Agent may be entitled to indemnification by any Debtor pursuant to the indemnification provisions in the Ad Hoc DIP Documents and (iv) the payment in full in cash or immediately available funds of all of the Allowed Prepetition Term Loan Amounts, as applicable ("Paid in Full"). While any portion of the Ad Hoc DIP Facility (or any refinancing thereof), the DIP Obligations or the Allowed Prepetition Term Loan Amounts remain outstanding and the commitments thereunder have not been terminated, neither the DIP Liens nor the Junior Third Liens shall be (x) subject or junior to

any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under Bankruptcy Code section 551 or (y) subordinated to or made *pari passu* with any other lien or security interest, whether under Bankruptcy Code section 364(d) or otherwise (other than, subject to the terms of the DIP Intercreditor Agreement, the liens granted to secure the ABL Debt pursuant to the Interim ABL DIP Order and Final ABL DIP Order).

(b) Unless all DIP Obligations shall have indefeasibly been Paid in Full, the Debtors shall not seek, and it shall constitute an Event of Default if any of the Debtors seek, or if there is entered, (i) any modification or extension of this Final Order without the prior written consent of the Ad Hoc DIP Agent, and no such consent shall be implied by any other action, inaction or acquiescence, or (ii) an order converting or dismissing any of the Chapter 11 Cases.

(c) If an order dismissing any of the Chapter 11 Cases under Bankruptcy Code section 1112 or otherwise is at any time entered, such order shall provide (in accordance with Bankruptcy Code sections 105 and 349) that (i)(x) the Superpriority Claims, priming liens, and security interests granted to the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders, and (y) the Junior Third Liens granted to the Prepetition Term Loan Secured Parties, in each case, pursuant to the Interim Order or this Final Order shall continue in full force and effect and shall maintain their priorities as provided in the Interim Order or this Final Order until all DIP Obligations and/or Allowed Prepetition Term Loan Amounts shall have been indefeasibly paid in cash in full (and that such Superpriority Claims and priming liens and Junior Third Liens, shall, notwithstanding such dismissal, remain binding on all parties in interest) and (ii) to the extent permitted by applicable law, the Bankruptcy Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in clause (i) above.

(d) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacation shall not affect (i) the validity, priority or enforceability of any DIP Obligations incurred prior to the actual receipt of written notice by the Ad Hoc DIP Agent, of the effective date of such reversal, stay, modification or vacation or (ii) the validity or enforceability of any lien or priority authorized or created (x) by the Interim Order, this Final Order or pursuant to the Ad Hoc DIP Documents with respect to any DIP Obligations or (y) by the Interim Order or this Final Order with respect to the Allowed Prepetition Term Loan Amounts. Notwithstanding any such reversal, stay, modification or vacation, any use of DIP Obligations incurred by the Debtors to the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders prior to the actual receipt of written notice by the Ad Hoc DIP Agent of the effective date of such reversal, stay, modification or vacation shall be governed in all respects by the original provisions of this Final Order, and the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders shall be entitled to all the rights, remedies, privileges and benefits granted in Bankruptcy Code section 364(e), this Final Order and pursuant to the Ad Hoc DIP Documents with respect to the DIP Obligations. For the avoidance of doubt, the Prepetition Term Loan Secured Parties shall also be entitled to the rights, remedies, privileges and benefits granted in Bankruptcy Code section 364(e), this Final Order and pursuant to the Prepetition Term Loan Credit Agreement with respect to the Allowed Prepetition Term Loan Amounts.

(e) Except as expressly provided in this Final Order or in the Ad Hoc DIP Documents, the DIP Liens, the Superpriority Claims, the Junior Third Liens and all other rights and remedies of the Ad Hoc DIP Agent, the Ad Hoc DIP Lenders and the Prepetition Term Loan Secured Parties granted by the provisions of the Interim Order, this Final Order and the Ad Hoc DIP Documents shall survive, and shall not be modified, impaired or discharged by (i) the entry

of an order converting any of the Chapter 11 Cases to a case under chapter 7, dismissing any of the Chapter 11 Cases, terminating the joint administration of the Chapter 11 Cases or by any other act or omission or (ii) the entry of an order confirming a plan of reorganization in any of the Chapter 11 Cases and, pursuant to Bankruptcy Code section 1141(d)(4), the Debtors have waived any discharge as to any remaining DIP Obligations. The terms and provisions of the Interim Order, this Final Order and the Ad Hoc DIP Documents shall continue in the Chapter 11 Cases, in any successor cases if the Chapter 11 Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code, and (x) the DIP Liens and the Superpriority Claims and all other rights and remedies of the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders and (y) the Junior Third Liens and all other rights and remedies of the Prepetition Term Loan Secured Parties, in each case, granted by the provisions of the Interim Order, this Final Order and/or the Ad Hoc DIP Documents shall continue in full force and effect until the DIP Obligations and any Allowed Prepetition Term Loan Amounts are Paid in Full.

18. *Limitation on Use of Ad Hoc DIP Facility and DIP Collateral.* Notwithstanding anything herein, in the Interim Order or in any other order by the Bankruptcy Court to the contrary, no borrowings, proceeds of letters of credit, DIP Collateral, portion of the proceeds of the Ad Hoc DIP Facility or part of the Carve-Out may be used for any of the following (each, a "Lender Claim"): to (a) object, contest or raise any defense to, the validity, perfection, priority, extent or enforceability of any amount due under the Ad Hoc DIP Documents, or the liens or claims granted under the Interim Order, this Final Order or the Ad Hoc DIP Documents, (b) investigate or assert any claims, defenses or causes of action that may exist under law, equity or otherwise against the Ad Hoc DIP Agent, the Ad Hoc DIP Lenders, or their respective agents, affiliates, representatives, attorneys or advisors, (c) prevent, hinder or otherwise delay the Ad

Hoc DIP Agent's assertion, enforcement or realization on the DIP Collateral in accordance with the Ad Hoc DIP Documents, the Interim Order or this Final Order, (d) seek to modify any of the rights granted to the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders hereunder, under the Interim Order or under the Ad Hoc DIP Documents, in each of the foregoing cases without such applicable parties' prior written consent, or (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of the Bankruptcy Court and (ii) in accordance with the Ad Hoc DIP Documents.

19. *Effect of Stipulations on Third Parties; Investigations of Prepetition Liens.*

(a) Each stipulation, admission and agreement contained in this Final Order, including, without limitation, in paragraph 4 of this Final Order, shall be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors) under all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Lender Claims and Prepetition Lender Claims (as defined below) as of the date of entry of the Interim Order. Each stipulation, admission and agreement contained in this Final Order, including, without limitation, in paragraph 4 of this Final Order, shall also be binding upon all other parties in interest, including, without limitation, the Committee, under all circumstances and for all purposes, except to the extent that (i) a party in interest (other than the Committee), has, subject to the limitations contained herein, timely and properly filed an adversary proceeding asserting a Prepetition Lender Claim with respect to any of the stipulations or admissions set forth in paragraph 4 by no later than the date that is seventy-five (75) days after the Petition Date; and (ii) there is a final order in favor of the plaintiff sustaining such Prepetition Lender Claim. The success of any particular Lender Claim or Prepetition Lender Claim shall not alter the binding

effect on each party in interest of any stipulation or admission not subject to such Lender Claim or Prepetition Lender Claim.

(b) Notwithstanding the foregoing, the Committee shall be entitled to investigate and commence any adversary proceeding or contested matter, as required by the applicable Federal Rules of Bankruptcy Procedure, by no later than the earlier of the date that is (x) seventy-five (75) days after the Petition Date or (y) sixty (60) days (or such later date as (1) has been agreed to, in writing, by the Ad Hoc DIP Agent and Bayside, or (2) otherwise ordered by the Bankruptcy Court) after the appointment of the Committee, to challenge the existence, validity, priority or enforceability of the liens securing the Prepetition Term Loan Debt and/or the obligations under the Prepetition Term Loan Documents, or to assert any claim or cause of action against the Prepetition Term Loan Secured Parties arising under or in connection with the Prepetition Term Loan Debt, the Prepetition Term Loan Credit Agreement (including the Early Payment Fee and any interest with respect thereto or indemnification claims (including attorneys' fees) in connection therewith) and any other Prepetition Term Loan Document (collectively, the "Prepetition Lender Claims"); *provided, however*, that no more than \$100,000 in the aggregate of the DIP Collateral, the Carve-Out, proceeds from the borrowings under the Ad Hoc DIP Facility or any other amounts (collectively, the "Prepetition Term Loan Investigation Cap"), may be used by the Committee to investigate such Prepetition Lender Claims (other than in connection with an investigation by the Committee of the Early Payment Fee (and any interest with respect thereto or indemnification claims (including attorneys' fees) in connection therewith) and the Prepetition Term Loan Default Interest, which shall not be subject to the Prepetition Term Loan Investigation Cap) and/or liens and security interests of the Prepetition Term Loan Secured Parties under or in connection with the Prepetition Term Loan

Documents. For the avoidance of doubt, the remittance of the Prepetition Term Loan Repayment or the funding of the Disputed Escrow Fund shall not prejudice the rights of the Committee set forth in this subparagraph (b).

(c) Nothing in this Final Order vests or confers on any person (as defined in the Bankruptcy Code) standing or authority to pursue any cause of action belonging to the Debtors or their estates. Notwithstanding the foregoing, the Committee shall be granted standing to pursue any cause of action belonging to the Debtors or their estates set forth in subparagraphs (a) and (b) above in this paragraph 19.

(d) Notwithstanding anything to the contrary herein, upon written notice to the landlord of any of the Debtors' leased premises that an Event of Default has occurred and is continuing, the Ad Hoc DIP Agent may enter upon such leased premises for the purpose of exercising any right or remedy with respect to the collateral located thereon and shall be entitled to the Debtors' rights and privileges under such lease(s) without interference from such landlord; *provided*, that the Ad Hoc DIP Agent shall pay to such landlord rent first accruing after the above referenced written notice and during the period of occupancy by the Ad Hoc DIP Agent, calculated on a per diem basis and any such amount paid shall be deemed to be DIP Obligations, as applicable.

20. Insurance Policies. As of the entry of the Interim Order, the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders were, and are be deemed to be, without any further action or notice, named as additional insureds and loss payees on each insurance policy maintained by the Debtors that in any way relates to DIP Collateral; *provided, however*, for the avoidance of doubt, this paragraph and paragraph 20 of the Interim Order shall not delete any other additional insured or loss payee from any insurance policy.

21. ***Order Governs.*** In the event of any inconsistency between the provisions of this Final Order and the Ad Hoc DIP Documents, the provisions of this Final Order shall govern.

22. ***Binding Effect; Successors and Assigns.*** The Ad Hoc DIP Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in the Chapter 11 Cases, including, without limitation, the Ad Hoc DIP Agent, the Ad Hoc DIP Lenders, the Committee and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to Bankruptcy Code section 1104 or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the Ad Hoc DIP Agent, the Ad Hoc DIP Lenders and the Debtors and their respective successors and assigns, *provided, however*, that the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders shall have no obligation to extend any financing to any chapter 7 or chapter 11 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan (whether under the Ad Hoc DIP Credit Agreement, promissory notes or otherwise) or in exercising any rights or remedies as and when permitted pursuant to the Interim Order, this Final Order or the Ad Hoc DIP Documents, the Ad Hoc DIP Agent and the Ad Hoc DIP Lenders shall not (i) be deemed to be in control of the operations of the Debtors, (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates or (iii) be deemed to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the 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).

23. *No Marshaling/Application of Proceeds.* In no event shall the Ad Hoc DIP Agent or the Ad Hoc DIP Lenders be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral, and all proceeds shall be received and applied in accordance with this Final Order.

24. *Right to Credit Bid.* Subject to the terms of the DIP Intercreditor Agreement, pursuant to section 363(k) of the Bankruptcy Code and included as part of any restructuring plan subject to confirmation under section 1129(b)(2)(A)(iii) of the Bankruptcy Code, the Ad Hoc DIP Agent (at the direction of the required Ad Hoc DIP Lenders) and the ABL DIP Agent (at the direction of the required ABL DIP Lenders) shall have the right to “credit bid” their claims, in full or in part, in connection with any sale of all or any portion of the DIP Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any restructuring plan subject to confirmation under section 1129(b)(2)(A)(iii) of the Bankruptcy Code (so long as the right of any Junior Claimholders (as defined in the DIP Intercreditor Agreement) to offset their claims against the purchase price only arises after the Priority Debt (as defined in the DIP Intercreditor Agreement) has been paid in full in cash). In consideration of the Ad Hoc DIP Facility, it shall be an Event of Default (as defined in the Ad Hoc DIP Credit Agreement) for the Ad Hoc DIP Agent (at the direction of the required Ad Hoc DIP Lenders) to not be allowed to credit bid the amount, in full or in part, of the DIP Obligations.

25. *No Impact on Certain Contracts or Transactions.* No rights of any entity in connection with a contract or transaction of the kind listed in Bankruptcy Code sections 555, 556, 559, 560 or 561, whatever they might or might not be, are affected by the provisions of this Final Order.

26. **No Third Party Rights.** Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary other than the ABL DIP Agent, the ABL DIP Lenders and the Committee.

27. **Exclusions.** Nothing herein, in the Interim Order or in any of the Ad Hoc DIP Documents shall operate as a release or waiver of, or a limit on expenditures in pursuit of, any claims or causes of action held or assertable by any party (including, without limitation, any of the Debtors or any other party in interest) against any Debtor, any "affiliate" of any Debtor (as defined in the Bankruptcy Code) or any officer, director or direct or indirect shareholder (or affiliate thereof) of any Debtor.

28. **Release.** Upon the date that each applicable portion of the Ad Hoc DIP Facility shall be Paid in Full and prior to the release of the applicable DIP Liens, the Debtors shall execute and deliver to the Ad Hoc DIP Agent and Ad Hoc DIP Lenders a general release of any and all claims and causes of action that could have been asserted or raised under or in connection with the Ad Hoc DIP Facility. Upon entry of the Interim Order, the Debtors were deemed to have released the Bayside DIP Agent and the Bayside DIP Lenders of any and all claims and causes of action that could have been asserted or raised under or in connection with the Bayside DIP Facility.

29. **Effectiveness; Conflict.**

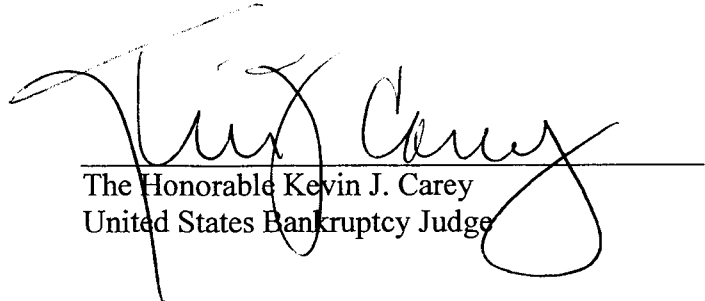
(a) This Final Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9024, any other Bankruptcy Rule or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order

shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

(b) In the event of any conflict between the terms of this Final Order and the Final ABL DIP Order with respect to the substance of the Prepetition Term Loan Secured Parties' and the Bayside DIP Parties' pre- and postpetition liens, claims, rights and remedies as set forth in paragraph 10(b), this Final Order shall govern and control. Additionally, the supplemental Carve-Out provision in this Final Order granted with priority solely with respect to the Term Loan Priority Collateral shall be deemed supplemental to, and not in conflict with, the carve-out provisions of the Final ABL DIP Order.

30. **Headings.** Paragraph headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Final Order.

Dated: March 14, 2013
Wilmington, Delaware



The Honorable Kevin J. Carey
United States Bankruptcy Judge

Exhibit A

Budget

School Specialty Inc.
DIP Summary

DRAFT - Subject to Change

		School Specialty Inc. DIP Analysis													
		Feb-13	Feb-13	Feb-13	Mar-13	Mar-13	Mar-13	Mar-13	Apr-13	Apr-13	Apr-13	Apr-13	Apr-13	May-13	May-13
		Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2
		2/1	2/8	2/15	2/22	3/1	3/8	3/15	3/22	3/29	4/5	4/12	4/19	4/26	5/3
Receivables		\$ 7.2	\$ 6.5	\$ 5.9	\$ 8.2	\$ 7.9	\$ 7.8	\$ 8.3	\$ 7.1	\$ 9.5	\$ 9.0	\$ 7.2	\$ 9.0	\$ 10.5	\$ 8.7
Disbursements:															
Operating Disbursements															
Payroll		\$0.0	\$3.6	\$0.0	\$4.0	\$0.5	\$4.1	\$0.2	\$4.1	\$0.3	\$4.1	\$ 0.3	\$ 4.2	\$ 0.3	\$ 4.2
Taxes		0.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
AP Disbursement		0.2	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Professional Fees		4.3	14.2	7.8	5.2	8.9	8.5	6.8	7.1	7.4	8.6	9.2	10.5	9.7	8.2
Professional Fees for Unsecured Creditors		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Restructuring/Other Prof. Fees		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Operating Disbursements		\$6.1	\$18.1	\$8.6	\$9.4	\$11.6	\$12.6	\$10.1	\$11.6	\$7.7	\$13.4	\$9.8	\$17.1	\$10.8	\$16.8
ABL Interest/Fee		\$2.1	\$0.0	\$0.0	\$0.2	\$1.1	\$0.0	\$0.0	\$0.0	\$0.2	\$0.0	\$0.0	\$0.2	\$0.0	\$0.0
Term Loan DIP Interest/Fees		2.7	0.0	0.0	0.0	1.2	0.0	0.0	0.0	0.9	0.0	0.0	0.9	0.0	0.0
Convertible Notes Interest (Propitition)		1.7	0.0	0.0	0.0	0.3	0.1	0.0	0.0	0.4	0.0	0.0	0.4	0.0	0.0
Total Disbursements		\$11.8	\$18.1	\$8.6	\$9.6	\$12.9	\$12.6	\$10.1	\$11.6	\$8.3	\$13.4	\$9.8	\$17.4	\$10.8	\$16.8
Net Cash Flow		(\$4.4)	(\$11.7)	(\$2.5)	(\$1.7)	(\$5.6)	(\$4.8)	(\$1.8)	(\$4.5)	\$0.2	(\$4.6)	(\$2.6)	(\$3.4)	(\$1.8)	(\$9.8)
Beginning Cash Balance		\$ -	\$ 5.0	\$ 0.0	\$ 0.4	\$ 0.0	\$ 5.5	\$ 4.0	\$ 4.6	\$ 1.7	\$ 11.1	\$ 7.7	\$ 7.9	\$ 4.5	\$ 3.3
Net Cash Outflows		(11.6)	(18.1)	(8.5)	(9.9)	(13.4)	(12.6)	(10.1)	(11.6)	(8.3)	(13.4)	(9.8)	(17.4)	(12.4)	(14.6)
Net Borrowings/(Paydowns)		18.5	13.2	8.9	9.5	13.8	11.1	10.7	8.7	18.2	10.1	10.0	14.0	11.2	18.7
Unrestricted Cash Balance		\$ 5.0	\$ 0.0	\$ 0.4	\$ 0.0	\$ 5.5	\$ 4.0	\$ 4.6	\$ 1.7	\$ 11.1	\$ 7.7	\$ 7.9	\$ 4.5	\$ 3.3	\$ 3.3
ABL DIP Balance															
Projected ABL Availability		\$ 59.8	\$ 56.8	\$ 56.3	\$ 57.8	\$ 58.1	\$ 61.5	\$ 63.5	\$ 64.4	\$ 65.2	\$ 65.2	\$ 65.2	\$ 65.8	\$ 67.8	\$ 67.4
ABL Beginning Balance		43.3	37.7	46.0	44.6	44.1	43.7	47.0	49.4	50.9	50.1	51.2	54.0	59.0	63.5
Minimum Liquidity		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Excess/(Deficit) ABL Availability		\$10.5	\$13.9	\$5.2	\$8.1	\$9.1	\$12.6	\$11.5	\$10.0	\$9.2	\$10.1	\$13.1	\$10.8	\$17.2	\$18.0
Incremental ABL Funding/(Paydown)		\$ -	\$ 13.2	\$ 4.4	\$ 6.6	\$ 7.8	\$ 11.1	\$ 10.7	\$ 10.7	\$ 8.7	\$ 10.1	\$ 10.0	\$ 14.0	\$ 11.2	\$ 12.7
Funded ABL Debt Balance		\$ 37.7	\$ 44.0	\$ 44.8	\$ 43.1	\$ 43.7	\$ 47.0	\$ 49.4	\$ 50.9	\$ 50.1	\$ 51.2	\$ 54.0	\$ 59.0	\$ 63.5	\$ 67.8
Allowed Overage															
Term Loan DIP															
Funded DIP Balance		-	15.0	15.0	19.5	22.5	33.8	33.8	33.8	33.8	43.8	43.8	43.8	43.8	49.8
Incremental DIP Funding		15.0	-	4.5	3.0	11.2	-	-	-	10.0	-	-	-	5.0	-
Ending Funded Balance		\$ 15.0	\$ 15.0	\$ 19.5	\$ 22.5	\$ 33.8	\$ 33.8	\$ 33.8	\$ 33.8	\$ 43.8	\$ 43.8	\$ 43.8	\$ 43.8	\$ 49.8	\$ 54.8

Note

As long as the DIP Collateral (as defined below), the Professionals' Carve-Out, if and to the extent involved pursuant to this Interim Order, shall be allocated one-half against and funded from the ABL Priority Collateral and one-half against and funded from the Term Loan Priority Collateral, other than the Professionals' Carve-Out for amounts anticipated to be incurred on or after the date of the Required Prepayment Date (as defined in the ABL DIP Credit Agreement) and April 30, 2013 (including any success fee), which amounts shall be funded exclusively from the Term Loan Priority Collateral or the BaySide DIP Credit Agreement. The delayed closing fee for the Ad Hoc DIP Facility requires a 1% delayed closing fee which we have paid out of cash flow in the final week.