

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

In re:

MOLECULAR TEMPLATES, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10739 (BLS)

(Joint Administration Requested)

RE: D.I. 16

**NOTICE OF AMENDED DECLARATION OF BRIAN AYERS IN SUPPORT OF
DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I)
AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND
(B) UTILIZE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO
THE PREPETITION LENDER, (III) MODIFYING THE AUTOMATIC STAY, (IV)
SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that, on April 20, 2025 (the "Petition Date"), the above captioned debtors and debtors-in-possession (the "Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in this Court.

PLEASE TAKE FURTHER NOTICE that, on April 21, 2025, the Debtors' filed the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to the Prepetition Lender, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [D.I. 14] (the "DIP Motion").

PLEASE TAKE FURTHER NOTICE that, on April 21, 2025, in support of the DIP Motion, the Debtors filed the, *Declaration of Brian Ayers in Support of Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to the Prepetition Lender, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [D.I. 16] (the "Ayers Declaration").

¹ The Debtors in these Chapter 11 Cases, along with the Debtors' federal tax identification numbers, are: Molecular Templates, Inc. (9596) and Molecular Templates OpCo, Inc. (6035). The Debtors' mailing address is: 124 Washington Street, Ste. 101, Foxboro, MA 02035. All Court filings can be accessed at: <https://www.veritaglobal.net/MolecularTemplates>.



PLEASE TAKE FURTHER NOTICE that, the Debtors hereby file an amended version of the Ayers Declaration (the “Amended Ayers Declaration”), attached hereto as **Exhibit 1**.

PLEASE TAKE FURTHER NOTICE that for the convenience of the Court and all parties in interest, attached hereto as **Exhibit 2** is a blackline comparing the Amended Ayers Declaration to the Ayers Declaration.

PLEASE TAKE FURTHER NOTICE that, copies of the DIP Motion, Amended Ayers Declaration, and all other documents filed with the Court are available free of charge on the website maintained by Kurtzman Carson Consultant, LLC dba Verita Global, the Debtors’ claims and noticing agent, at <https://www.veritaglobal.net/MolecularTemplates>.

Dated: April 22, 2025
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jake A Rauchberg

Eric D. Schwartz (No. 3134)
Andrew R. Remming (No. 5120)
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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT 1

Amended Ayers Declaration

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

In re:

MOLECULAR TEMPLATES, INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 25-10739 (BLS)

(Joint Administration Requested)

RE: D.I. 14

**AMENDED DECLARATION OF BRIAN AYERS IN SUPPORT OF DEBTORS’
MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING
THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B)
UTILIZE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION
TO THE PREPETITION LENDER, (III) MODIFYING THE AUTOMATIC
STAY, (IV) SCHEDULING A FINAL HEARING, AND
(V) GRANTING RELATED RELIEF**

I, Brian Ayers, declare under penalty of perjury as follows:

1. I am the founding partner of Rock Creek Advisors (“Rock Creek”) a financial advisory firm with its principal office located in 1738 Belmar Blvd. Belmar, New Jersey 07719. Rock Creek is the proposed financial advisor for the debtors and debtors in possession (collectively, the “Debtors” or the “Company”) in each of the above-captioned chapter 11 cases (these “Chapter 11 Cases”).

2. I have been employed at Rock Creek as a managing director. Rock Creek has expertise in turnarounds, assignments for the benefit of creditors, financial advisory services, and liquidations. At Rock Creek, I focus primarily on management consulting and financial restructuring, specializing in liquidity management, financial strategic planning, and

¹ The Debtors in these chapter 11 cases, along with the Debtors’ federal tax identification numbers, are: Molecular Templates, Inc. (9596) and Molecular Templates OpCo, Inc. (6035). The Debtors’ mailing address is: 124 Washington Street, Ste. 101 Foxboro, MA 02035. All Court filings can be accessed at: <https://www.veritaglobal.net/MolecularTemplates>.

implementation of financial strategies for corporate turnarounds and restructurings. My experience of over 20 years is in a wide variety of industries, including retail, transportation and logistics, manufacturing, construction, healthcare, and bio-tech. I am a graduate of Syracuse University with a BA in economics and Certified Insolvency and Restructuring Advisor and a Certified Turnaround Professional

3. I am familiar with the day-to-day operations and business and financial affairs of the Debtors.

4. I submit this declaration (the “Declaration”) in support of the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to the Prepetition Secured Lender, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, (V) Granting Related Relief* [D.I. 14] (the “Motion”), filed contemporaneously herewith.² Through the Motion, the Debtors seek, among other things, approval of the DIP Facility, consisting of a senior secured debtor-in-possession credit facility in an aggregate principal amount of up to \$3,000,000 (the “New Money DIP Loan Commitments”), which shall include a roll up of a portion of the Prepetition Bridge Loan and Amended CVR Agreement (collectively, the “Prepetition Loan Obligations”) equal to \$9,000,000, pursuant to the terms of the DIP Financing Term Sheet dated April 20, 2025 by and between the Debtors and K2 HealthVentures LLC (“K2” or the “DIP Lender”).³

5. Although Rock Creek is expected to be compensated for its work as the Debtors’ proposed financial advisor in the Chapter 11 Cases, I am not compensated separately for this Declaration or testimony. Except as otherwise indicated herein, all statements set forth in this

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

³ The material terms of the DIP Facility are set forth in further detail in the Motion. For the avoidance of doubt, any description of the DIP Facility herein or in the Motion is qualified in its entirety by reference to the DIP Term Sheet.

Declaration are based on (i) my personal knowledge of the Debtors' business affairs and finances, (ii) information currently available to me, information supplied to me by the Debtors former directors, officers, and employees, (ii) the Debtors' professionals, (iii) my review of relevant documents, and/or (iv) my opinion based upon my experience and knowledge of the Debtors' business affairs and financial conditions and the industry in which the Debtors operated. If called upon to testify, I could and would testify to the facts set forth herein.

The DIP Financing

I. The Debtors' Need for Post-Petition Financing

6. Information regarding the Debtors' cash needs leading up to the commencement of the Chapter 11 Cases and the need for the relief requested in the Motion is addressed in detail in the *Declaration of Craig Jalbert in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration") that was filed on April 21, 2025. Key issues highlighted therein include that the Debtors require uninterrupted access to their cash and an immediate capital infusion to fund the Chapter 11 Cases and successfully consummate a chapter 11 plan of reorganization.

7. Additionally, it is my understanding that the Debtors have an immediate and continuing need to obtain the DIP Facility to, among other purposes, minimize the disruption of the Debtors' business affairs, including, but not limited to, paying certain vendors and employees critical to the Debtors' business affairs, and manage and preserve the assets of their bankruptcy estates in these chapter 11 cases under Bankruptcy Code section 541 (the "Estates"). It is my understanding that the Debtors do not have sufficient and reliable resources of working capital to conduct their business affairs and preserve the value of the Estates without the DIP Facility and the use of Cash Collateral. I further understand that the use of the DIP Facility and Cash Collateral,

is necessary to the Debtors' ability to maximize the value of their Estates and prevent an imminent and irreparable value-destructive wind-down and liquidation.

8. It is my understanding that the Debtors and the DIP Lender entered into a comprehensive Restructuring Support Term Sheet (the "Restructuring Term Sheet"), dated April 20, 2025. As noted in the First Day Declaration, the Restructuring Term Sheet contemplates a chapter 11 plan of reorganization that provides the DIP Lender the issuance of new common equity in the Debtors in exchange for the final satisfaction, release, and compromise of certain of its claims against the Debtors, including, but not limited to, the DIP Claims. It is my understanding, that Restructuring Term Sheet was heavily negotiated, and the terms of the DIP Facility were essential to those discussions. It is my further understanding that the DIP Facility provides the liquidity required to successfully consummate a chapter 11 plan of reorganization.

II. The Debtors' Efforts to Obtain Postpetition Financing

9. As noted in the First Day Declaration, the Company has recently faced a number of headwinds that have negatively impacted its businesses, including technical risks associated with research, development and manufacturing of product candidates, development by competitors of new technological innovations, dependence on key personnel, protection of proprietary technology, compliance with government regulations, and the ability to secure additional capital to fund operations.

10. Prior to the Petition Date, starting in March 2023, the Debtors, in consultation with their advisors, engaged in three (3) successive rounds of marketing of their assets and exploring strategic alternatives to its clinical stage biotechnology business. However, none of these prepetition marketing processes yielded a viable means to address the Debtors' liquidity concerns. As a result, the Debtors, in consultation with their advisors, were thereafter able to raise additional

capital in 2023 and 2024 through two private placement equity offerings, but these capital raises came in at well below what had been initially targeted.

11. In the beginning of 2025, the Debtors maintained continued liquidity concerns. It is my understanding that discussions began to take place between the Debtors and K2 to discuss potential value-maximizing alternatives to a state law dissolution, including the potential funding of a chapter 11 plan process by K2. After several weeks of negotiations, and after considering a number of different wind-down alternatives, the Debtors, in consultation with their advisors, began to outline the Restructuring Term Sheet that would restructure the Debtors' existing debt and effect a transfer of the Debtors' assets to the DIP Lender as part of a chapter 11 plan process.

12. As part of the Restructuring Term Sheet, K2 has also agreed to fund the Chapter 11 Cases with a \$3,000,000 million senior secured debtor-in-possession financing facility. The Debtors have also entered into an agreement with K2 with respect to consensual use of cash collateral. It is my understanding, that the Company, with the assistance of its advisors, focused its efforts on negotiating the proposed DIP Facility to ensure that the Company has access to the liquidity required to preserve the value of the Estates, maintain critical vendors and employees critical to preserving the Debtors' business affairs, and successfully consummate a chapter 11 plan of reorganization.

13. As noted in the DIP Motion, as a result of arms-length negotiations, the Debtors and K2 ultimately came to a consensual agreement on terms and conditions of the proposed DIP Facility, including on the use of Cash Collateral and the roll up of the Prepetition Loan Obligations. I further understand that the proposed DIP Facility is the highest and only offer available to the Debtors.

14. Additionally, after the K2 had agreed in principle to provide the DIP Facility, I approached no less than three (3) parties that regularly provide postpetition financing in the middle market and lower middle market spaces. None of those parties were willing to match or better the terms provided by the DIP Facility and specifically not on a basis subordinate to the Prepetition Loan Obligations.

III. Terms of the Proposed DIP Facility⁴

15. As noted in the DIP Motion, the proposed DIP Facility consists of a senior secured superpriority debtor-in-possession financing new money loan commitments in the aggregate maximum principal amount of up to \$12,000,000, which \$3,000,000 in new money commitments and a roll up of a portion of the outstanding Prepetition Loan Obligations. The New Money Loan Commitments will be made to the Debtors in three (3) draws (each an “Advance”) over the term of the DIP Facility, subject to certain conditions precedent. It is my understanding that notwithstanding anything set forth in the DIP Term Sheet, that if the conditions precedent to any draw are satisfied or waived, then the DIP Lender shall be obligated to make the DIP Loans contemplated under the DIP Budget and the DIP Term Sheet.

16. It is my understanding that the Debtors will receive an Interim Advance in the amount of \$500,000 to be made available to the Debtors following the entry of the interim debtor-in-possession financing order. The Debtors may receive the Final Order Advance of \$1,500,000 upon entry of the Final Order. The Debtors may further receive the Discretionary Draw of up to \$1,000,000 upon satisfaction of the condition precedents set forth in the DIP Term Sheet and to

⁴ The material terms of the proposed DIP Facility are set forth in detail in the DIP Motion. For the avoidance of doubt, any description of the proposed terms of the DIP Facility herein or in the DIP Motion is qualified in its entirety by reference to the proposed interim order approving the borrowing contemplated by the DIP Facility.

the extent set forth in the DIP Budget. Each Advance is subject to certain, additional conditions precedent which are more fully described in DIP Term Sheet.

17. The economic terms of the proposed DIP Facility are more fully described in the DIP Motion. Certain key terms of the DIP Facility include (i) the Debtors' obligation to pay certain customary fees, which shall accrue in kind and become due and owing on the Maturity Date (as defined herein); (ii) the requirement that Ankura Trust Company, LLC, as the collateral trustee for the DIP Lender (the "Collateral Trustee"), be granted a security interest in and continuing lien on all of the Debtors' assets for the benefit of the DIP Lender; and (iii) Debtors' obligation to use the proceeds of the DIP Facility in accordance with the DIP Budget. The DIP Lender shall be entitled to certain Adequate Protection including (i) superpriority administrative expense claim status; (ii) replacement liens on all Prepetition Collateral, junior only to the liens of the DIP Lender, but subject to any prior Permitted Liens; and (iii) postpetition interest. Under the DIP Term Loan Facility and prior to entry of a Final Order, interest accrues at a rate of 13.5% per annum which interest shall accrue in kind and shall be paid in full in cash on the Maturity Date (as defined herein).

18. The Debtors are required to comply with certain case milestones during the Chapter 11 Cases, including with respect to filing and obtaining approval of the Solicitation Procedures Motion, confirmation of the Combined Disclosure Statement and Plan, and the Plan Effective Date. It is my understanding that these milestones were an integral part of the negotiations concerning the DIP Term Sheet and Restructuring Term Sheet.

19. As noted in the DIP Motion, the DIP Facility matures (the "Maturity Date") up to 70 days after the Petition Date. As further noted in the Plan and Restructuring Term Sheet, the DIP Claims shall receive in final satisfaction of such DIP Claims payment in full in Cash or such

other treatment agreed to by the Debtors and K2, including but not limited to the issuance of new equity in the reorganized Debtors.

IV. The Proposed DIP Facility Is the Best and Only Financing Option Available to the Debtors

20. Based on my experience with debtor-in-possession financing transactions as well as my involvement in the efforts to secure post-petition financing for the Debtors, I believe the DIP Facility, taken as a whole, is the best and only available financing option under the facts and circumstances of the Chapter 11 Cases.

21. *First*, the proposed DIP Facility is expected to provide the Debtors with access to the amount of capital that the Debtors, in consultation with their advisors, believe is necessary to effectively and efficiently administer the Chapter 11 Cases.

22. *Second*, the terms of the proposed DIP Facility are the result of the negotiations described above. As previously noted, the Debtors, with the assistance of their advisors, engaged in three (3) successive rounds of marketing of their assets and exploring strategic financial alternatives. Those initial efforts yielded no viable or actionable outcomes under the circumstances.

23. *Third*, I believe that the principal economic terms proposed under the DIP Facility, such as the contemplated New Money DIP Loan Commitments, the fees, interest rate, and default rate, are customary and usual for debtor-in-possession financings of this type. Additionally, based on discussions I participated in, the roll up and the case milestones were required by the DIP Lenders, who viewed these as integral components of the overall terms of the DIP Facility. It is my further view that, based on the discussions I participated in, the economic terms of the DIP

Facility were negotiated at arm's length and are, in the aggregate, generally consistent with the overall cost profile of debtor-in-possession financings in comparable circumstances.

Conclusion

24. Given the financing efforts and process described above and based on my experience as a restructuring professional and involvement in other financing transactions, I believe that the DIP Facility is the best and only financing option presently available to the Debtors and that the terms of the DIP Facility are in the best interests of the estates.

25. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: April 22, 2025

/s/ Brian Ayers

Brian Ayers

EXHIBIT 2

Blackline

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implementation of financial strategies for corporate turnarounds and restructurings. My experience of over 20 years is in a wide variety of industries, including retail, transportation and logistics, manufacturing, construction, healthcare, and bio-tech. I am a graduate of Syracuse University with a BA in economics and Certified Insolvency and Restructuring Advisor and a Certified Turnaround Professional

3. I am familiar with the day-to-day operations and business and financial affairs of the Debtors.

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5. Although Rock Creek is expected to be compensated for its work as the Debtors' proposed financial advisor in the Chapter 11 Cases, I am not compensated separately for this Declaration or testimony. Except as otherwise indicated herein, all statements set forth in this Declaration are based on (i) my personal knowledge of the Debtors' business affairs and finances, (ii) information currently available to me, information supplied to me by the Debtors former directors, officers, and employees, (iii) the Debtors' professionals, (iii) my review of relevant documents, and/or (iv) my opinion based upon my experience and knowledge of the Debtors' business affairs and financial conditions and the industry in which the Debtors operated. If called upon to testify, I could and would testify to the facts set forth herein.

The DIP Financing

I. The Debtors' Need for Post-Petition Financing

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7. Additionally, it is my understanding that the Debtors have an immediate and continuing need to obtain the DIP Facility to, among other purposes, minimize the disruption of the Debtors' business affairs, including, but not limited to, paying certain vendors and employees critical to the Debtors' business affairs, and manage and preserve the assets of their bankruptcy estates in these chapter 11 cases under Bankruptcy Code section 541 (the "Estates"). It is my

understanding that the Debtors do not have sufficient and reliable resources of working capital to conduct their business affairs and preserve the value of the Estates without the DIP Facility and the use of Cash Collateral. I further understand that the use of the DIP Facility and Cash Collateral, is necessary to the Debtors' ability to maximize the value of their Estates and prevent an imminent and irreparable value-destructive wind-down and liquidation.

8. It is my understanding that the Debtors and the DIP Lender entered into a comprehensive Restructuring Support Term Sheet (the "Restructuring Term Sheet"), dated April 20, 2025. As noted in the First Day Declaration, the Restructuring Term Sheet contemplates a chapter 11 plan of reorganization that provides the DIP Lender the issuance of new common equity in the Debtors in exchange for the final satisfaction, release, and comprise of certain of its claims against the Debtors, including, but not limited to, the DIP Claims. It is my understanding, that Restructuring Term Sheet was heavily negotiated, and the terms of the DIP Facility were essential to those discussions. It is my further understanding that the DIP Facility provides the liquidity required to successfully consummate a chapter 11 plan of reorganization.

II. The Debtors' Efforts to Obtain Postpetition Financing

9. As noted in the First Day Declaration, the Company has recently faced a number of headwinds that have negatively impacted its businesses, including technical risks associated with research, development and manufacturing of product candidates, development by competitors of new technological innovations, dependence on key personnel, protection of proprietary technology, compliance with government regulations, and the ability to secure additional capital to fund operations.

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exploring strategic alternatives to its clinical stage biotechnology business. However, none of these prepetition marketing processes yielded a viable means to address the Debtors' liquidity concerns. As a result, the Debtors, in consultation with their advisors, were thereafter able to raise additional capital in 2023 and 2024 through two private placement equity offerings, but these capital raises came in at well below what had been initially targeted.

11. In the beginning of 2025, the Debtors maintained continued liquidity concerns. It is my understanding that discussions began to take place between the Debtors and K2 to discuss potential value-maximizing alternatives to a state law dissolution, including the potential funding of a chapter 11 plan process by K2. After several weeks of negotiations, and after considering a number of different wind-down alternatives, the Debtors, in consultation with their advisors, began to outline the Restructuring Term Sheet that would restructure the Debtors' existing debt and effect a transfer of the Debtors' assets to the DIP Lender as part of a chapter 11 plan process.

12. As part of the Restructuring Term Sheet, K2 has also agreed to fund the Chapter 11 Cases with a \$3,000,000 million senior secured debtor-in-possession financing facility. The Debtors have also entered into an agreement with K2 with respect to consensual use of cash collateral. It is my understanding, that the Company, with the assistance of its advisors, focused its efforts on negotiating the proposed DIP Facility to ensure that the Company has access to the liquidity required to preserve the value of the Estates, maintain critical vendors and employees critical to preserving the Debtors' business affairs, and successfully consummate a chapter 11 plan of reorganization.

13. As noted in the DIP Motion, as a result of arms-length negotiations, the Debtors and K2 ultimately came to a consensual agreement on terms and conditions of the proposed DIP Facility, including on the use of Cash Collateral and the roll up of the Prepetition Loan

Obligations. I further understand that the proposed DIP Facility is the highest and only offer available to the Debtors.

14. Additionally, after the K2 had agreed in principle to provide the DIP Facility, I approached no less than three (3) parties that regularly provide postpetition financing in the middle market and lower middle market spaces. None of those parties were willing to match or better the terms provided by the DIP Facility and specifically not on a basis subordinate to the Prepetition Loan Obligations.

III. Terms of the Proposed DIP Facility⁴

15. ~~14.~~ As noted in the DIP Motion, the proposed DIP Facility consists of a senior secured superpriority debtor-in-possession financing new money loan commitments in the aggregate maximum principal amount of up to \$12,000,000, which \$3,000,000 in new money commitments and a roll up of a portion of the outstanding Prepetition Loan Obligations. The New Money Loan Commitments will be made to the Debtors in three (3) draws (each an “Advance”) over the term of the DIP Facility, subject to certain conditions precedent. It is my understanding that notwithstanding anything set forth in the DIP Term Sheet, that if the conditions precedent to any draw are satisfied or waived, then the DIP Lender shall be obligated to make the DIP Loans contemplated under the DIP Budget and the DIP Term Sheet.

16. ~~15.~~ It is my understanding that the Debtors will receive an Interim Advance in the amount of \$500,000 to be made available to the Debtors following the entry of the interim debtor-in-possession financing order. The Debtors may receive the Final Order Advance of \$1,500,000 upon entry of the Final Order. The Debtors may further receive the Discretionary

⁴ The material terms of the proposed DIP Facility are set forth in detail in the DIP Motion. For the avoidance of doubt, any description of the proposed terms of the DIP Facility herein or in the DIP Motion is qualified in its entirety by reference to the proposed interim order approving the borrowing contemplated by the DIP Facility.

Draw of up to \$1,000,000 upon satisfaction of the condition precedents set forth in the DIP Term Sheet and to the extent set forth in the DIP Budget. Each Advance is subject to certain, additional conditions precedent which are more fully described in DIP Term Sheet.

17. ~~16.~~ The economic terms of the proposed DIP Facility are more fully described in the DIP Motion. Certain key terms of the DIP Facility include (i) the Debtors' obligation to pay certain customary fees, which shall accrue in kind and become due and owing on the Maturity Date (as defined herein); (ii) the requirement that Ankura Trust Company, LLC, as the collateral trustee for the DIP Lender (the "Collateral Trustee"), be granted a security interest in and continuing lien on all of the Debtors' assets for the benefit of the DIP Lender; and (iii) Debtors' obligation to use the proceeds of the DIP Facility in accordance with the DIP Budget. The DIP Lender shall be entitled to certain Adequate Protection including (i) superpriority administrative expense claim status; (ii) replacement liens on all Prepetition Collateral, junior only to the liens of the DIP Lender, but subject to any prior Permitted Liens; and (iii) postpetition interest. Under the DIP Term Loan Facility and prior to entry of a Final Order, interest accrues at a rate of 13.5% per annum which interest shall accrue in kind and shall be paid in full in cash on the Maturity Date (as defined herein).

18. ~~17.~~ The Debtors are required to comply with certain case milestones during the Chapter 11 Cases, including with respect to filing and obtaining approval of the Solicitation Procedures Motion, confirmation of the Combined Disclosure Statement and Plan, and the Plan Effective Date. It is my understanding that these milestones were an integral part of the negotiations concerning the DIP Term Sheet and Restructuring Term Sheet.

19. ~~18.~~ As noted in the DIP Motion, the DIP Facility matures (the "Maturity Date") up to 70 days after the Petition Date. As further noted in the Plan and Restructuring Term Sheet,

the DIP Claims shall receive in final satisfaction of such DIP Claims payment in full in Cash or such other treatment agreed to by the Debtors and K2, including but not limited to the issuance of new equity in the reorganized Debtors.

IV. The Proposed DIP Facility Is the Best and Only Financing Option Available to the Debtors

20. ~~19.~~ Based on my experience with debtor-in-possession financing transactions as well as my involvement in the efforts to secure post-petition financing for the Debtors, I believe the DIP Facility, taken as a whole, is the best and only available financing option under the facts and circumstances of the Chapter 11 Cases.

21. ~~20.~~ *First*, the proposed DIP Facility is expected to provide the Debtors with access to the amount of capital that the Debtors, in consultation with their advisors, believe is necessary to effectively and efficiently administer the Chapter 11 Cases.

22. ~~21.~~ *Second*, the terms of the proposed DIP Facility are the result of the negotiations described above. As previously noted, the Debtors, with the assistance of their advisors, engaged in three (3) successive rounds of marketing of their assets and exploring strategic financial alternatives. Those initial efforts yielded no viable or actionable outcomes under the circumstances.

23. ~~22.~~ *Third*, I believe that the principal economic terms proposed under the DIP Facility, such as the contemplated New Money DIP Loan Commitments, the fees, interest rate, and default rate, are customary and usual for debtor-in-possession financings of this type. Additionally, based on discussions I participated in, the roll up and the case milestones were required by the DIP Lenders, who viewed these as integral components of the overall terms of the DIP Facility. It is my further view that, based on the discussions I participated in, the economic terms of the DIP Facility were negotiated at arm's length and are, in the aggregate, generally consistent with the overall cost profile of debtor-in-possession financings in comparable circumstances.

Conclusion

24. ~~23.~~ Given the financing efforts and process described above and based on my experience as a restructuring professional and involvement in other financing transactions, I believe that the DIP Facility is the best and only financing option presently available to the Debtors and that the terms of the DIP Facility are in the best interests of the estates.

25. ~~24.~~ Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: April ~~21~~22, 2025

/s/ Brian Ayers

Brian Ayers