

Richard L. Wynne (Bar No. 120349)
richard.wynne@hoganlovells.com
Erin N. Brady (Bar No. 215038)
erin.brady@hoganlovells.com
Edward J. McNeilly (Bar No. 314588)
edward.mcneilly@hoganlovells.com
HOGAN LOVELLS US LLP
1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
Telephone: (310) 785-4600
Facsimile: (310) 785-4601

Todd M. Schwartz (Bar No. 288895)
todd.schwartz@hoganlovells.com
HOGAN LOVELLS US LLP
855 Main St Suite 200
Redwood City, CA 94063
Telephone: (650) 463-4000
Facsimile: (650) 463-4199

Attorneys for Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SANTA ROSA DIVISION

In re
LEFEVER MATTSON, a California
corporation, *et al.*

Debtors.¹

Case No. 24-10545 CN (Lead Case)

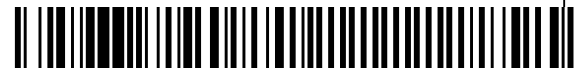
(Jointly Administered)

In re
KS MATTSON PARTNERS, LP,

Debtor.

**MOTION OF DEBTOR FOR INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE
DEBTOR TO OBTAIN POST-PETITION
SECURED FINANCING PURSUANT TO
SECTION 364 OF THE BANKRUPTCY CODE;
(II) AUTHORIZING THE USE OF THE DIP
LENDER'S CASH COLLATERAL; (III)
GRANTING SUPERPRIORITY
ADMINISTRATIVE EXPENSE CLAIMS; (IV)
MODIFYING THE AUTOMATIC STAY;**

¹ The last four digits of LeFever Mattson's tax identification number are 7537. The last four digits of the tax identification number for KS Mattson Partners, LP ("KSMP") are 5060. KSMP's address for service is c/o Stapleton Group, 514 Via de la Valle, Solana Beach, CA 92075. The address for service on LeFever Mattson and all other Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 9562. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://veritaglobal.net/LM>. entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://veritaglobal.net/LM>.



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**(V) SCHEDULING A FINAL HEARING; AND
(VI) GRANTING RELATED RELIEF**

Date: TBD

Time: TBD

Place: (In Person or Via Zoom)

United States Bankruptcy Court
1300 Clay Street, Courtroom 215
Oakland, CA 94612

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1 KS Mattson Partners, LP (the “Debtor”) hereby moves (the “Motion”) this Court pursuant
2 to sections 105, 362, 363, 364, 503, and 507 of title 11 of the United States Code (the “Bankruptcy
3 Code”), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure, (the
4 “Bankruptcy Rules”) and Rules 2002-1 and 4001-1 of the Bankruptcy Local Rules for the Northern
5 District of California (the “Bankruptcy Local Rules”), and the *Guidelines for Cash Collateral &*
6 *Financing Motions & Stipulations* (the “Guidelines”) for the entry of interim and final orders
7 authorizing the Debtor to obtain up to \$4 million of secured, superpriority postpetition financing on
8 the terms detailed herein. The Debtor seeks entry of an interim order to approve the immediate
9 borrowing and use of up to \$1 million of financing for the initial draw (the “Interim DIP Loan”), on
10 the terms described herein, to enable the Debtor to continue operating its businesses until a final
11 hearing on this Motion (the “Interim Period”). A proposed interim order is attached hereto as Exhibit
12 A (the “Proposed Interim Order”).

13 The facts and circumstances supporting this Motion are set forth in the *Declaration of*
14 *Robbin L. Itkin in Support of the Debtor’s Motion to Obtain Post-Petition Financing* (the “Itkin
15 Declaration”) filed contemporaneously herewith and incorporated by reference herein. Capitalized
16 terms used but not defined herein have the meanings given to them in the Itkin Declaration.

17 **CONCISE STATEMENT OF THE RELIEF REQUESTED**

18 By this Motion, the Debtor requests entry of interim and final orders granting the Debtor
19 authority to obtain postpetition financing and to use cash collateral for working capital and general
20 corporate purposes during the Chapter 11 Cases, including payment of retained professionals’ fees
21 and expenses. The proposed orders seek, among other things, the following relief:

- 22 (1) **Authorizing DIP Loans** – The Debtor seeks authority to obtain postpetition financing
23 pursuant to a secured, administrative superpriority term loan facility (the “DIP Facility”)
24 in a maximum aggregate amount of up to \$4,000,000.00 on the terms and conditions set
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1 forth in the *DIP Term Sheet* (the “Term Sheet,” attached hereto as **Exhibit B**)¹ by and
2 between the Debtor and Serene Investment Management, LLC (the “DIP Lender”), which
3 shall include the following:

- 4 (a) Interest Rates: 16% per annum on amounts drawn, payable in kind (PIK). All
5 accrued interest shall be capitalized to the outstanding principal balance and shall
6 be due and payable at maturity or upon early repayment. The Debtor shall pay a
7 minimum of six (6) months’ accrued interest on the DIP Loans, regardless of
8 early repayment.
- 9 (b) Default Rate: 4% above the base rate.
- 10 (c) Fees and Expenses: A one-time, non-refundable facility fee of \$120,000, which
11 shall be payable in kind (PIK) and added to the principal balance on the DIP
12 Closing Date. Debtor is responsible for all fees, costs, and expenses of the DIP
13 Lender, including any and all expenses of the DIP Lender’s counsel,
14 professional advisors, including financial and real estate advisors, and in-house
15 administration and shall reimburse such reasonable amounts within 10 days of
16 being provided invoices therefor or in the manner set forth in the DIP Financing
17 Orders
- 18 (d) Liens and Superpriority Claims: Subject to the Carve-Out, to secure the DIP
19 Obligations, the Debtor will grant to the DIP Lender a first priority lien on all
20 unencumbered real property on the Collateral Schedule and junior priority liens
21 on all other real property on the Collateral Schedule that is already subject to
22 secured claims. The Debtor will also grant the DIP Lender a first priority lien in
23 the note in the amount of \$19 million held by the Debtor and secured by a junior
24 lien on the property located at 1716 Ocean Front, Del Mar, CA 92014. The
25 Debtor will also grant the DIP Lender a superpriority administrative expense
26 claim pursuant to section 364(c)(1).
- 27 (e) Carve-Out: The DIP Lender’s interests in the DIP Collateral and its priority claims
28 shall be subject and subordinate to payment of (a) all US Trustee fees; (b) fees and
29 expenses of up to \$25,000 incurred by a trustee under section 726(b) of the
30 Bankruptcy Code; (c) the Allowed Professional Fees incurred after the Relief
31 Date; and (d) the Allowed Professional Fees in an aggregate amount not to exceed
32 \$250,000 incurred after the first business day following delivery by the DIP
33 Lender of the Carve Out Trigger Notice. The failure of the Carve-Out Account to
34 satisfy in full the Allowed Professional Fees shall not affect the priority of the

35 ¹ Capitalized terms used herein but not otherwise defined herein shall have the meanings given to
36 them in the Term Sheet. The Debtor and the DIP Lender are working on a definitive form of loan
37 and security agreement (the “DIP Credit Agreement”) which, once completed and executed, will
38 be filed and will supersede the Term Sheet. The DIP Lender has agreed to advance the Interim DIP
39 Loan of up to \$1 million on the basis of the Term Sheet upon entry of the Interim Order.

Carve-Out, and none of the Approved Budget, Carve-Out, Post Carve-Out Trigger Notice Cap shall be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtor.

(f) Excluded Property: The Collateral shall explicitly exclude Avoidance Actions, Commercial Tort Claims, and D&O Claims, and the DIP Lender waives the right to proceeds of the Avoidance Actions, the Commercial Tort Claims, or the D&O Claims, whether for its superpriority administrative claim or otherwise.

(g) Termination Date: The earliest of (a) December 31, 2025; (b) August 6, 2025, if the Final Order has not been entered by the Bankruptcy Court by September 18, 2025; (c) the consummation of a sale of all of the DIP Lender's Collateral pursuant to an order or orders entered by the Bankruptcy Court, which must provide for payment in full of the DIP Obligations amount to the extent not paid previously; (d) the substantial consummation of a plan of reorganization or a plan of liquidation for the Borrower that is confirmed pursuant to an order entered by the Bankruptcy Court, which must provide for payment in full of the DIP Obligations to the extent not paid previously; and (e) the acceleration of the DIP Loans and the termination of the commitment with respect to the DIP Loans in accordance with the DIP Financing Documents.

(h) Events of Default: Typical of loan agreements, including, without the consent of the DIP Lender, failure to pay principal, interest, or any other amounts due; defaults under covenants; the entry of an Order, other than the DIP Financing Orders, approving financing under section 364 of the Bankruptcy Code for which Debtor is or may become liable; appointment of a bankruptcy trustee; dismissal or conversion of the Bankruptcy Case; breaches of the DIP Financing Documents; entry of an order reversing, staying, or modifying the DIP Financing Orders; filing a plan of reorganization or plan of liquidation that does not provide for repayment in cash on the effective date of the entirety of the DIP Loans; payment of certain prepetition claims; entry of an order granting stay relief in respect of any Collateral; and granting any superpriority claim that is *pari passu* with or senior to that of the DIP Lender.

(i) Representations, Warranties, Covenants, Indemnity and Other Provisions: The DIP Financing Documents shall include other customary provisions including, without limitation, representations and warranties, affirmative and negative covenants, and provisions relating to indemnification, confidentiality, and assignments/participations, and compliance with an approved budget, subject to agreed variances.

(2) Stay Relief – Vacating or modifying the automatic stay imposed by section 362 to the extent necessary for the DIP Lender to (i) exercise its rights and remedies with respect to the Collateral; and (ii) upon the occurrence and continuation of an Event of Default, (a) declare the DIP Loans and all other obligations under the DIP Facility to be due and

payable; (b) refuse to extend any further DIP Loans under the DIP Facility, and/or (c) subject only to the Carve-Out, terminate the use of cash collateral securing payment of any obligations under the DIP Facility or the DIP Financing Documents.

(3) **Schedule Final Hearing** – Setting a final hearing (the “**Final Hearing**”) to consider entry of the Final Order granting the relief requested in this Motion on a final basis and approving the form of notice with respect to the Final Hearing and the transactions contemplated by the Motion.

(4) **Waiver of Stay** – Waiving any applicable stay (including under Bankruptcy Rule 6004) with respect to the effectiveness and enforceability of the Interim Order and providing for the immediate effectiveness of the Interim Order or Final Order, as applicable.

REQUIRED DISCLOSURES

As required by Section C of the Guidelines, the Debtor provides the following statement regarding the proposed financing.

Disclosure Item	Detail	Reference²
1. Granting of lien or priority	First priority liens on all unencumbered real property assets of the Debtor as described in Exhibit A to the DIP Term Sheet not otherwise subject to a lien under sections 364(c)(2) and superpriority administrative claim under section 364(c)(1); and junior priority liens on all other real property on Exhibit A to the DIP Term Sheet that is already subject to secured claims, in each case subject only to the Carve-Out and permitted first priority liens on the encumbered Collateral	Term Sheet: “Security and Priority” Proposed Interim Order §§ 2.1 and 2.2

² The Term Sheet references for the Required Disclosures will be updated upon the filing of the DIP Credit Agreement.

2. Adequate protection	No adequate protection is being provided on account of any pre-petition collateral.	N/A
3. A determination with respect to the validity, perfection, priority or amount of a pre-petition claim, or any lien securing such claim	No pre-petition claims or liens will be affected by the DIP Loans.	N/A
4. Waiver or modification of the automatic stay	The automatic stay is modified to allow exercise of remedies, perfection of liens, implementation of the financing arrangement and upon the occurrence and continuation of an Event of Default.	Term Sheet: "Waiver/Modification of the Automatic Stay"; Proposed Interim Order § 3.3
5. Waiver of plan and credit rights	Debtor's right to propose a plan is limited to a plan of reorganization or liquidation that provides for repayment in full of the DIP Facility Amount to the extent not paid previously. Debtor is prohibited from, absent the consent of the DIP Lender, obtaining post-DIP Facility credit secured by a superpriority administrative expense claim or senior secured status claim senior or <i>pari passu</i> with the claims of the DIP Lender.	Term Sheet: "Maturity" and "Events of Default"; Proposed Interim Order § 6.5
6. Waiver of applicable nonbankruptcy law on perfection of or enforcement of lien	Allows for acts to perfect liens in DIP Collateral.	Proposed Interim Order § 2.1.5
7. Release, waiver, or limitation of any claim or	No releases by the estate except for indemnification of DIP Lender.	Term Sheet: "Expenses and Indemnification"

1	cause of action belonging to the estate		
2			
3	8. Indemnification of any entity	Indemnification provided to DIP Lender by the Debtor against all losses, liability, claims, damages or other expenses arising out of or related to the DIP Financing documents, except for the DIP Lender's fraud, willful misconduct, or gross negligence.	Term Sheet: "Expenses and Indemnification"
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9	9. Release, waiver, or limitation of any right under section 506(c)	Final Order shall include a waiver under section 506(c).	Term Sheet: "DIP Financing Orders"; Proposed Interim Order § 5.2
10			
11	10. Granting of liens on avoidance and related claims and causes of action	The DIP Collateral does not include Avoidance Actions, Commercial Tort Claims, or D&O Claims.	Term Sheet: "Security and Priority"; Proposed Interim Order § 2.2
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14	11. "Carve-outs" for professional fees and expenses	The DIP Collateral liens and superpriority claims of the DIP Lender shall be subject and subordinate to payment of (a) statutory fees of the United States Trustee, (b) fees and expenses of a chapter 7 trustee in an amount not to exceed \$25,000; and (c) all professional fees incurred after the Relief Date.	Term Sheet: "Carve-Out"; Proposed Interim Order § 2.3
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By: /s/ *Richard Wynne*
Richard Wynne

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. JURISDICTION AND VENUE**

3 The United States Bankruptcy Court for the Northern District of California (this “Court”)
4 has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, the *Order Referring*
5 *Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.), and Rule
6 5011-1(a) of the Bankruptcy Local Rules for the Northern District of California. This is a core
7 proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C.
8 §§ 1408 and 1409.

9 **II. BACKGROUND**

10 **A. General Background**

11 The Debtor’s chapter 11 case arises out of an alleged multiyear and multimillion dollar
12 fraud perpetrated by Kenneth Mattson. This alleged fraud has resulted in multiple litigations against
13 the Debtor, Kenneth Mattson, and LeFever Mattson, a California corporation (the real estate
14 corporation jointly owned by Mr. Mattson and Mr. LeFever). It has also resulted in the United
15 States Department of Justice bringing criminal charges against Mr. Mattson. On September 12,
16 2024, LeFever Mattson and fifty-seven affiliates and subsidiaries filed voluntary petitions for relief
17 under chapter 11 of the Bankruptcy Code, commencing their jointly administered bankruptcy
18 cases.¹

19 On November 22, 2024, the Debtor became subject to an involuntary petition for relief
20 under chapter 11 of the Bankruptcy Code. On June 9, 2025 (the “Relief Date”), the Court entered
21 the *Stipulated Order for Relief in an Involuntary Case* (Docket No. 131) and appointed Robbin L.
22 Itkin as the Responsible Individual in this case, with effect from June 16, 2025 (the “Itkin Approval
23 Order”) (Docket No. 172). Among other things, the Itkin Approval Order provides that:

24 Ms. Itkin (a) shall solely be responsible for the duties and obligations of the Debtor
25 as a debtor in possession; (b) shall be vested with the sole and exclusive right and

26 ¹ One other entity, Windscape Apartments, LLC, filed a voluntary petition for chapter 11 (Case No. 24-
27 10417) on August 6, 2024, and two other entities, Pinewood Condominiums, LP (Case No. 24-10598) and
28 Ponderos Pines, LP (Case No. 24-10599), filed voluntary chapter 11 petitions on October 2, 2024.

1 full authority to manage, conduct, and operate the Debtor's business,
2 including, without limitation, opening, closing, and otherwise controlling the
3 Debtor's bank accounts; and (c) shall not be removed as Responsible Individual
4 without further order of this Court. Notwithstanding anything to the contrary
5 contained herein or in the *Limited Partnership Agreement of K S Mattson Partners,*
6 *LP* (as amended from time to time), all decisions respecting any matter affecting or
7 arising out of the conduct of the business of the Debtor shall be made by the
8 Responsible Individual.

9 Itkin Approval Order ¶ 4.

10 The Itkin Approval Order further provides that “[a]ny third party dealing with the Debtor
11 may rely upon this Order as to the Responsible Individual’s authority to act for the Debtor.” *Id.* The
12 Debtor continues to operate its business and manage its properties as debtor in possession pursuant
13 to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee
14 of unsecured creditors has been appointed in this case.

15 **B. KS Mattson Partners, LP**

16 The Debtor was formed as a California limited partnership on August 16, 1999 to manage
17 and develop the Mattson family assets. The Debtor’s partnership interests are held by each of
18 Kenneth Mattson (49%), his wife, Stacy Mattson, (49%), and K S Mattson Company, LLC
19 (“KSMC”) (2%). KSMC was the general partner of KSMP; each of Mr. and Mrs. Mattson holds
20 50% of the membership interests in KSMC, with Kenneth Mattson serving as KSMC’s managing
21 member. As of the Relief Date, the Responsible Individual believes that the Debtor held interests
22 in approximately 34 properties (the “Properties”), some of which the Responsible Individual
23 believes that the Debtor owns outright, and some of which the Responsible Individual believes
24 Debtor holds as tenant in common with other investors.

25 **C. The Debtor’s Prepetition Secured Debt**

26 As set forth in the Itkin Declaration, the Properties are comprised of various property types:
27 single-family, multi-family, commercial, mixed-use, agricultural, and vacant land. Many of these
28 properties are encumbered by at least one deed of trust held by a secured lender. *See* Itkin Decl. ¶
9. The secured lenders range from institutional banks, to private hard-money lenders, to individuals.
Id. at 12. The Debtor has performed a lien search and believes that the Unencumbered DIP
Collateral (as defined herein) is not subject to the liens of any prepetition lender. *Id.* At 13.

1 **D. The Debtor's Need for DIP Financing**

2 As further described in the Itkin Declaration, the Debtor requires access to liquidity to avoid
3 immediate, irreparable harm to the value of the Debtor's estate. The Debtor is currently operating
4 on extremely limited unencumbered funds and requires immediate access to capital to maximize
5 the value of the Debtor's estate for the benefit of its creditors. The Debtor has imminent operational
6 expenses that must be paid to, among other things, purchase, reinstate, and maintain property
7 insurance, pay utilities, and fund property maintenance. In addition, there are several properties
8 that, at this time, are not generating income, and the Debtor has little to no unencumbered cash to
9 pay for emergency expenses on those properties. The liquidity from the DIP Loans will allow the
10 Debtor to pay for these expenses. Further, the Debtor needs to be able to pay the fees of retained
11 professionals in this chapter 11 case. The Debtor and its advisors have analyzed how much
12 postpetition financing would be required to operate the Debtor's business and fund the
13 administrative costs of this chapter 11 process. As part of this analysis, the Debtor and its advisors
14 developed a 13-week cash flow forecast, which takes into account anticipated operating
15 disbursements during the projected period and considers a number of factors, including, but not
16 limited to, the fees and interest expense associated with postpetition financing, professional fees,
17 property management and operational costs, as well as the timing of potential sales of the
18 Properties.

19 Based on the Debtor's forecasts, access to both the DIP Facility and the Cash Collateral will
20 be required to cover the Debtor's projected restructuring costs of this Chapter 11 case and operating
21 expenses, including property management obligations. The Debtor's Properties have urgent
22 expenses, nonpayment of which will impact the Debtor's ability to upkeep repair on the Properties
23 and will negatively impact the Debtor's ability to drive rental revenue from the Properties, thereby
24 impairing the value of those assets and reducing the amounts for which they can be sold.
25 Furthermore, access to the proposed DIP Facility will provide the Debtor with necessary funds to
26 administer this chapter 11 case while it pursues a sale process for the Debtor's real estate assets.
27 Accordingly, securing postpetition financing is necessary and appropriate. The Debtor's ability to
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1 continue funding ongoing operations during this chapter 11 case is essential to the preservation of
2 the Debtor's assets and their ability to maximize the value of those assets.

3 In particular, during the Interim Period, the Debtor will need to fund approximately:

- 4 1. \$139,114 in one-time insurance premiums and policy payments to place and
5 maintain property insurance on 34 properties;
- 6 2. \$10,000 in ongoing monthly insurance payments;
- 7 3. \$45,546 in ongoing monthly utility payments;
- 8 4. \$210,000 in one-time initial property maintenance costs;
- 9 5. \$30,333 in ongoing monthly property maintenance costs;
- 10 6. \$8,000 in security costs;
- 11 7. \$62,500 in payments representing amounts due for June and July to the
12 Responsible Individual;
- 13 8. \$25,000 in travel related expenses;
- 14 9. \$250 to cover quarterly fees owed to the United States Trustee;
- 15 10. \$52,028 in aging post-Relief Date payables²;
- 16 11. \$100,000 for other miscellaneous expenses.

17 **E. The Debtor's Search for DIP Financing**

18 The Debtor's Responsible Individual and advisors solicited indications of interest from
19 various lenders who regularly provide financing to debtors in possession. In all, the Debtor
20 contacted approximately four such lenders, and received proposals from three lenders. Because the
21 majority of the Debtor's properties have senior loans on them, the Debtor has limited assets that
22 are not otherwise encumbered that can serve as collateral for debtor-in-possession financing. The
23 Debtor, in exercise of its business judgment, determined that seeking to prime any of the secured
24 lenders on their properties could likely have spurred expensive and protracted litigation over
25 valuation of a given property or adequate protection to a primed lender, and so the Debtor decided,
26 in its reasonable business judgment, that it was in the best interest of the Debtor's estates to seek a

27 ² Including past due invoices on account of utilities, locks and keys, insurance, and maintenance.
28

1 lender who would not seek to prime any existing secured lenders. Instead, the DIP Lender accepted
2 a combination of first priority liens on several unencumbered properties as well as second, third, or
3 fourth priority liens on several properties with existing priority liens. Additionally, prior to granting
4 the DIP Loans, the DIP Lender itself held either first- or second-priority liens on several of the
5 encumbered properties on the DIP Collateral Schedule. The DIP Lender agreed to use those
6 encumbered properties as DIP Collateral as well.

7 The Debtor also needed a lender that was willing to transact on an expedited timeline so
8 that the Debtor may begin immediately making necessary payments—most critically property
9 maintenance and insurance. Out of the several lenders that the Debtor contacted, the DIP Lender
10 provided the quickest path to funding.

11 The Debtor ultimately chose the DIP Lender because the Term Sheet, as finally negotiated,
12 offered the most favorable terms when considering their costs, the availability of financing, and the
13 reduced risk of objection from various parties-in-interest in obtaining approval of the DIP Loans.
14 Further, the DIP Loans are the product of good faith, robust arm's-length negotiations and are
15 necessary for the Debtor to maximize the value of their assets on behalf of their constituents in this
16 chapter 11 case. As the DIP Lender is already familiar with the Debtor and is the DIP lender in the
17 related LeFever Mattson chapter 11 cases, and is providing DIP Financing to the Debtor on terms
18 at least as favorable as those provided to the debtors in those cases, the DIP Lender fosters the most
19 efficient and cost-effective DIP funding process.

20 **III. AUTHORITY FOR RELIEF REQUESTED**

21 **A. The Court Should Approve the DIP Loans and Authorize the Debtor's Entry** 22 **Into the Term Sheet and DIP Credit Agreement.**

23 The Debtor requests authorizations under section 364(c) to grant the DIP Lender three types
24 of protections: (a) superpriority administrative claims pursuant to section 364(c)(1); (b) senior liens
25 on certain of the Debtor's unencumbered assets pursuant to section 364(c)(2) and (c) junior liens on
26 certain of the Debtor's encumbered assets pursuant to section 364(c)(3). The Debtor has satisfied the
27 requirements to obtain credit on these terms.
28

1 Under section 364(c), a debtor may grant superpriority administrative claims and incur debt
2 secured by a lien on property of the estate that is not otherwise subject to a lien if the court determines
3 that the debtor was “unable to obtain unsecured credit allowable under section 503(b)(1) . . . as an
4 administrative expense.” § 364(c). Courts evaluating requests for financing under section 364 consider
5 whether certain factors are met, including that: (1) the proposed financing is an exercise of the debtor’s
6 sound and reasonable business judgment; (2) the financing agreement was negotiated in good faith and
7 at arm’s length; (3) no alternative financing is available on any other basis; (4) the terms of the
8 transaction are fair, reasonable, and adequate, given the circumstances of the borrower and the proposed
9 lender; (5) the financing is necessary, essential, and appropriate for the continued operation of the
10 debtor’s businesses and the preservation of its estates; and (6) the financing is in the best interests of the
11 estate and its creditors. *See In re Gardens Reg’l Hosp.*, No. 2:16-BK-17463-ER, 2017 WL 7101146, at
12 *4 (Bankr. C.D. Cal. July 28, 2016) (approving postpetition financing under § 364(c) based on these
13 factors); *In re Sterling Mining Co.*, No. 09-20178-TLM, 2009 WL 2514167, at *3 (Bankr. D. Idaho
14 Aug. 14, 2009); *see also In re Farmland Indus., Inc.*, 294 B.R. 855, 879-81 (Bankr. W.D. Mo. 2003)
15 (discussing factors applied by bankruptcy courts across jurisdictions). Each of these factors is
16 satisfied here.

17 **(i) The Term Sheet Reflects the Debtor’s Sound Business Judgment.**

18 In evaluating proposed DIP financing under Section 364, courts generally defer to the
19 business judgment of the debtor. *See In re Republic Airways Holdings Inc.*, No. 16-10429 (SHL),
20 2016 WL 2616717, at *10–11 (Bankr. S.D.N.Y. May 3, 2016); *In re Ames Dep’t Stores*, 115 B.R.
21 34, 40 (Bankr. S.D.N.Y. 1990). Courts presume that debtors make financing decisions “on an
22 informed basis, in good faith, and in the honest belief that the action taken was in the best interests
23 of the company.” *In re Los Angeles Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011); *see*
24 *also In re Simasko Prod. Co.*, 47 B.R. 444, 449 (D. Colo. 1985) (“The discretion to act with regard
25 to business planning activities is at the heart of the debtor’s power.”). Courts will not “second-guess
26 a business decision, so long as corporate management exercised a minimum level of care in arriving
27 of the decision.” *In re Los Angeles Dodgers LLC*, 457 B.R. at 313; *see also In re Simasko Prod. Co.*,
28

1 47 B.R. at 449 (“business judgments should be left to the board room and not to this Court”).

2 Here, the evidence demonstrates that immediate access to capital is essential to the
3 maintenance of the Debtor’s assets, that the terms of the Term Sheet are fair and reasonable, and
4 that the Term Sheet was negotiated in good faith.
5

6 **(ii) The Term Sheet Was Negotiated in Good Faith And at Arm’s Length**

7 As explained herein and in the Itkin Declaration, the Debtor’s negotiations with potential
8 lenders and the negotiations of the terms of the Term Sheet were carried out in good faith and at
9 arm’s length through sophisticated and experienced advisors. *See* Itkin Decl. ¶ 20.

10 **(iii) The Terms in The Term Sheet Are Fair, Reasonable and Adequate**

11 As described more fully above and in the Itkin Declaration, the Debtor was unable to obtain
12 financing without agreeing to provide the DIP Lender with the protections set forth in the Term Sheet.
13 *See* Itkin Decl. ¶ 23. The Debtor submits that approving such terms is appropriate under the
14 circumstances because (a) the DIP Lender was unwilling to extend credit without such terms; and (b)
15 the terms of the Term Sheet are generally favorable to the Debtor and its estate, based on what is
16 otherwise available in the market and the Debtor’s need for immediate access to liquidity. Indeed, as
17 set forth in the Required Disclosures above, the DIP Lender’s requirements are generally in
18 compliance with the Guidelines. Provisions similar to the enumerated terms at issue here are
19 frequently approved in this district. *See, e.g., Blue Earth, Inc. et al.*, Case No. 16-30296 (Bankr. N.D.
20 Cal. Apr. 29, 2016) [Docket No. 116]; *In re Newzoom, Inc.*, Case No. 15-31141 (Bankr. N.D. Cal.
21 Oct. 15, 2015) [Docket No. 153]; *In re Rdio, Inc.*, Case No. 15-31430 (Bankr. N.D. Cal. Dec. 10,
22 2015) [Docket No. 122]; *In re Lefever Mattson, a California corporation, et al.*, Case No. 24-10545
23 (CN) (Bankr. N.D. Cal. December 24, 2024) [Docket No. 502].

24 **(iv) The Debtor Could Not Obtain Credit Available on More Favorable
25 Terms**

26 A debtor is not required to seek alternative financing from every possible lender before it may
27 grant administrative expense claims or incur secured debt. *See In re Snowshoe Co.*, 789 F.2d 1085,
28

1 1088 (4th Cir. 1986) (more favorable credit unavailable where debtor contacted lenders in the
2 “immediate geographic area” and they would not extend unsecured credit); *see also In re Reading*
3 *Tube Indus.*, 72 B.R. 329, 332 (Bankr. E.D. Pa. 1987). Rather, the debtor need only demonstrate that
4 it made a “reasonable effort” to obtain unsecured credit from other lenders. *In re Ames Dep’t Stores*,
5 115 B.R. at 40 (Bankr. S.D.N.Y. 1990) (citing cases); *In re Capitol Station 65, LLC*, No. 17-23627-
6 B-11, 2018 WL 333863, at *12 (Bankr. E.D. Cal. Jan. 8, 2018).

7 The Debtor engaged in an informal marketing process to obtain the most favorable
8 postpetition financing available. *See* Itkin Decl. ¶20. Based on an evaluation of all reasonably
9 available options, the Debtor believes, in its business judgment, that Term Sheet represents the best
10 financing available to the Debtor.

11 (v) ***The DIP Loans Are Necessary and Appropriate for the Continued***
12 ***Operation of the Debtor’s Businesses and Preservation of its Estate***

13 Here, the need for financing is evident. As indicated in the Approved Budget, the Debtor
14 needs liquidity to meet the short-term expenses of the Debtor, including paying critical expenses
15 such as property and liability insurance on the Properties, shore up any shortfalls in the operating
16 expenses of the Debtor with insufficient real property cash flows, and fund the administration of
17 this chapter 11 case, including paying professional fees. As set forth above and in the Itkin
18 Declaration, without access to capital to meet these expenses, the Debtor’s operations and sale
19 process will be materially impacted—thus adversely impacting the value of its assets. *See* Itkin
20 Decl. ¶ 15. In the short term, the Debtor’s lack of access to capital will negatively impact the
21 Debtor’s ability to keep the Properties in repair, which will reduce the Debtor’s ability to drive
22 rental revenue from the Properties, and ultimately reduce the amounts for which the Properties can
23 be sold. *Id*

24 The only other funding alternative for the Debtor would be to sell some of the Properties on
25 an emergency basis. This “fire sale” approach could not be accomplished in time to avoid the
26 diminution in the average value of the Properties. This is because the Debtor has insufficient
27 unencumbered funds or access to cash collateral to make critical payments such as utility payments
28

1 and to pay insurance premiums on properties for which insurance renewals are upcoming or, in
2 certain cases, which had no insurance or inadequate insurance as of the Relief Date and a “fire sale”
3 process would not generate funds sufficiently quickly to meet these expenses. Further, a “fire sale”
4 process would not only reduce the value of the assets being sold, but it could potentially taint the
5 sales process for the remaining Properties by signaling to the potential market for the Properties that
6 the Debtor needs to liquidate assets quickly and will accept lower prices than they would if they had
7 time to properly market.

8 **(vi) *The DIP Loans are in The Debtor’s Best Interest.***

9 As described in the Itkin Declaration, absent ready access to the liquidity necessary to
10 sustain the ongoing maintenance of various of the Debtor’s Properties, their value would deteriorate
11 precipitously; and, further, it is essential that administrative expenses unrelated to the Properties be
12 paid in a timely fashion. See Itkin Decl. ¶¶ 16-18. It is, therefore, in the best interest of all parties
13 that the Debtor obtains immediate financing in order to preserve the value of the Debtor’s estates.

14 For the foregoing reasons, the Debtor submits that the Term Sheet was negotiated at arm’s
15 length and in good faith, that its terms are fair, reasonable and adequate, and that the Term Sheet
16 represents the best financing available to the Debtor under the circumstances.

17 **B. The Interim Order Should be Granted.**

18 **(i) *The Court Should Conduct a Preliminary Expedited Hearing.***

19 Bankruptcy Rule 4001(c) provides that a final hearing on a motion to obtain financing may not
20 be commenced earlier than 14 days after the service of such motion. Upon request, however, the Court
21 is authorized to conduct preliminary expedited hearings on a motion to access a post-petition credit
22 facility to the extent necessary to avoid immediate and irreparable harm to a debtor’s estate pending a
23 final hearing. Pursuant to Bankruptcy Rule 4001(c), the Debtor requests that the Court conduct an
24 expedited preliminary hearing on the Motion and (i) authorize the Debtor to receive the proceeds of
25 the Interim DIP Loan in order to maintain and finance the Debtor’s ongoing operations, pay utilities
26 and insurance, and avoid immediate and irreparable harm and prejudice to the Debtor’s estates and all
27 parties in interest, and (ii) schedule a Final Hearing on the relief requested herein. Absent authorization
28

1 from the Court to access the Interim DIP Loan pending a Final Hearing, the Debtor's estate and its
2 creditors will be immediately and irreparably harmed. As set forth above, the Debtor's ability to access
3 the Interim DIP Loan on the terms described herein is critical to its ability to operate its business.

4 ***The DIP Lender and the Debtor have not yet completed negotiation of the final and***
5 ***comprehensive DIP Credit Agreement.*** Accordingly, the Debtor hereby requests authority to
6 borrow the Interim DIP Loan of up to \$1 million against the Term Sheet immediately to fund the
7 Debtor's period of postpetition operations until the Final Hearing, prior to which the DIP Credit
8 Agreement will be negotiated and completed. Accordingly, an Interim Order should be granted
9 based on the Term Sheet and pending the Final Hearing.

10 (ii) ***The Debtor Requires Immediate Access to the Interim DIP Loan.***

11 The Court may grant interim relief in respect of a motion filed pursuant to subsections (b)
12 and (c) of section 364 of the Bankruptcy Code where, as here, interim relief is "necessary to avoid
13 immediate and irreparable harm to the estate pending a final hearing." Fed. R. Bankr. P. 4001(c)(2).
14 In examining requests for interim relief under this rule, courts generally apply the same business
15 judgment standard applicable to other business decisions. *See, e.g., In re Seriosa*, Case No. 2:16-
16 BK-14276-RK, 2016 WL 3478953, at *1 (Bankr. C.D. Cal. June 20, 2016).

17 As set forth in the Itkin Declaration, and as further detailed above, the Debtor has an
18 immediate need for access to financing to continue the operation of its businesses and otherwise
19 satisfy its working capital and operational needs, all of which is required to preserve and maintain
20 the Debtor's value for the benefit of all parties in interest. *See* Itkin Decl. ¶ 15.

21 The importance of a debtor's ability to access debtor-in-possession financing facilities to
22 prevent immediate and irreparable harm to its estate has been repeatedly recognized in this and other
23 circuits in similar circumstances. *See, e.g., In re Fleetwood Enterprises, Inc., et al.*, Case No. 09-
24 14254-MJ (Bankr. C.D. Cal. Mar. 31, 2009) [Docket No. 183] (approving postpetition financing and
25 modifying the automatic stay where, "[w]ithout the DIP Financing, the Debtors' operations would be
26 discontinued or severely disrupted, and the Debtors would be unable to pay operating expenses,
27 including expenses for necessary inventory and labor, and to operate their businesses in an orderly
28

1 manner, thereby severely impairing their ability to reorganize”); *In re Gardens Reg’l Hosp.*, 2017
2 WL 7101146 at *12 (Bankr. C.D. Cal. July 28, 2016); *In re Breitburn Energy Partners LP, et al.*, Case
3 No. 16-11390 (SMB) (Bankr. S.D.N.Y. May 23, 2016) [Docket No.73] (order approving postpetition
4 financing on an interim basis); *In re SunEdison, Inc.*, Case No. 16-10992 (SMB) (Bankr. S.D.N.Y.
5 Apr. 26, 2016) [Docket No. 87] (same); *In re The Great Atl. & Pac.Tea Co., Inc.*, Case No. 15-
6 23007 (RDD) (Bankr. S.D.N.Y. July 21, 2015) [Docket No. 88] (order approving postpetition
7 financing on an interim basis); *In re Eastman Kodak Co., et al.*, Case No. 12-10202 (MEW) (Bankr.
8 S.D.N.Y. Jan. 20, 2012) [Docket No. 54] (same); *In re Lefever Mattson, a California corporation,*
9 *et al.*, Case No. 24-10545 (CN) (Bankr. N.D. Cal. December 24, 2024) [Docket No. 502] (same).

10 As set forth in the Itkin Declaration, access to the Interim DIP Loan during the Interim
11 Period will provide the Debtor sufficient liquidity to continue its operations and fund the
12 administration of this Chapter 11 case. *See* Itkin Decl. ¶ 20. Specifically, the Interim DIP Loan will
13 allow the Debtor to continue to fund any operating expenses not otherwise met by the Debtor’s
14 current revenues, and compensate the professionals that oversee the Debtor’s daily operations. *Id.*

15 Accordingly, for the reasons set forth above, entry of the Proposed Interim Order is
16 necessary to avoid immediate and irreparable harm to the Debtor’s estates and is consistent with,
17 and warranted under, Bankruptcy Rules 4001(c)(2).

18 **C. The DIP Lender Is a Good Faith Lender Under Section 364(e).**

19 Section 364(e) of the Bankruptcy Code protects a good faith lender’s right to collect on
20 loans extended to a debtor and its right in any lien securing those loans, even if the authority of the
21 debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section
22 364(e) provides that:

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

1 11 U.S.C. § 364(e).

2 As explained in detail herein and in the Itkin Declaration, the Term Sheet is the result of
3 the Debtor's reasonable and informed determination that the DIP Lender offered the most
4 favorable terms pursuant to which the Debtor could obtain postpetition financing. *See* Itkin Decl. ¶
5 25. All negotiations regarding the Term Sheet were conducted in good faith and on an arm's length
6 basis. The terms and conditions of the Term Sheet are fair and reasonable, and the proceeds of the
7 DIP Loans will be used only for purposes that are permissible under the Bankruptcy Code and in
8 accordance with the Approved Budget. Further, no consideration is being provided to any party to
9 the Term Sheet other than as described herein. Accordingly, the Court should find that the DIP
10 Lender is a "good faith" lender within the meaning of section 364(e) of the Bankruptcy Code and
11 are entitled to all of the protections afforded by that section.

12 **D. The Scope of the Carve-Out is Appropriate.**

13 The DIP Collateral and the DIP Lender's superpriority claims are subject to the Carve-Out.
14 Without the Carve-Out, the Debtor and other parties in interest may be deprived of certain rights and
15 powers because the services for which professionals may be paid in this chapter 11 case would be
16 restricted. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990) (observing
17 that courts insist on carve-outs for professionals representing parties in interest because "[a]bsent
18 such protection, the collective rights and expectations of all parties in interest are sorely prejudiced").
19 The Carve-Out does not directly or indirectly deprive the Debtor's estates or other parties-in-interest
20 of possible rights and powers. Additionally, the Carve-Out ensures that assets will be available for
21 the payment of statutory fees of the United States Trustee, the fees of a potential chapter 7 trustee,
22 and fees and expenses of professionals retained in this Chapter 11 case.

23 **E. The Automatic Stay Should be Modified on a Limited Basis.**

24 The relief requested herein contemplates a modification of the automatic stay to permit the
25 Debtor to grant the liens in the DIP Collateral and, subject to a notice period of five business days,
26 permit the DIP Lender to enforce its remedies under the Term Sheet or DIP Credit Agreement as against
27 the Debtor. Stay modifications of this kind are ordinary and standard features for debtor-in-possession
28

1 financing, and in the Debtor's business judgment, they are reasonable and fair under the present
2 circumstances. *See, e.g., In re Gardens Reg'l Hosp.*, No. 2:16-BK-17463-ER, 2017 WL 7101146
3 (Bankr. C.D. Cal. July 28, 2016); *In re Fleetwood Enterprises, Inc., et al.*, Case No. 09-14254-MJ
4 (Bankr. C.D. Cal. Apr. 1, 2009) [Docket No. 183]; *In re SunEdison, Inc.*, Case No. 16-10992 (SMB)
5 (Bankr. S.D.N.Y. Apr. 26, 2016) [Docket No. 87]; *In re Aeropostale, Inc.*, Case No. 16-11275
6 (SHL) (Bankr. S.D.N.Y. May 6, 2016) [Docket No. 99].

7 **IV. RESERVATION OF RIGHTS**

8 Nothing contained herein is intended to be or shall be construed as (i) an admission as to
9 the validity of any claim against the Debtor, (ii) a waiver of the Debtor or any appropriate party in
10 interest's rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract,
11 program, policy, or lease under section 365 of the Bankruptcy Code. Likewise, if the Court grants
12 the relief sought herein, any payment made pursuant to the Court's order is not intended to be and
13 should not be construed as an admission to the validity of any claim or a waiver of the Debtor's
14 rights to dispute such claim subsequently.

15 **V. REQUEST FOR IMMEDIATE RELIEF AND WAIVER OF STAY**

16 The Debtor submits that, with respect to the Interim DIP Loan, the requirements for
17 Bankruptcy Rule 4001(c)(2)(A) have been met. The Interim DIP Loan provides credit only to the
18 extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing. The
19 Debtor requests a waiver of the notice requirements under Bankruptcy Rule 6004(a) and any stay of
20 the order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h). Because the relief
21 requested herein is necessary to avoid immediate and irreparable harm to the Debtor, cause exists to
22 justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day
23 stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and stay apply.

24 **VI. NOTICE**

25 Notice of this Motion will be provided to (i) the United States Trustee, (ii) parties that have
26 asserted, or, to the Debtors' knowledge, may assert an interest in the DIP Collateral, (iii) the parties
27 listed on the *Debtor's List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not*
28

1 *Insiders*, (iv) taxing authorities for those counties in which the Debtor owns real property, (v) the
2 Committee of Unsecured Creditors in the Lefever Mattson matter, (vi) those persons who have
3 formally appeared in this chapter 11 case and requested service pursuant to Bankruptcy Rule 2002
4 and (vii) counsel to the DIP Lender (collectively, the “Notice Parties”). Based on the urgency of the
5 circumstances surrounding this Motion and the nature of the relief requested herein, the Debtor
6 respectfully submits that no further notice is required.

7 **WHEREFORE**, the Debtor respectfully requests that the Court enter an interim order,
8 substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and for
9 such other and further relief.

10
11 Dated: July 29, 2025

/s/ Richard L. Wynne

Richard L. Wynne (Bar No. 120349)
richard.wynne@hoganlovells.com
Erin N. Brady (Bar No. 215038)
erin.brady@hoganlovells.com Edward J.
McNeilly (Bar No. 314588)
edward.mcneilly@hoganlovells.com
HOGAN LOVELLS US LLP
1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
Telephone: (310) 785-4600
Facsimile: (310) 785-4601

Todd M. Schwartz (Bar No. 288895)
todd.schwartz@hoganlovells.com
HOGAN LOVELLS US LLP
855 Main St Suite 200
Redwood City, CA 94063
Telephone: (650) 463-4000
Facsimile: (650) 463-4199

*Attorneys for Debtor and Debtor in
Possession*

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EXHIBIT A
(Proposed Interim Order)

Richard L. Wynne (Bar No. 120349)
richard.wynne@hoganlovells.com
Erin N. Brady (Bar No. 215038)
erin.brady@hoganlovells.com
Edward J. McNeilly (Bar No. 314588)
edward.mcneilly@hoganlovells.com
HOGAN LOVELLS US LLP
1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
Telephone: (310) 785-4600
Facsimile: (310) 785-4601

Todd M. Schwartz (Bar No. 288895)
todd.schwartz@hoganlovells.com
HOGAN LOVELLS US LLP
855 Main St Suite 200
Redwood City, CA 94063
Telephone: (650) 463-4000
Facsimile: (650) 463-4199

Attorneys for Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re
LEFEVER MATTSON, a California
corporation, et al.
Debtors.¹

Case No. 24-10545 CN (Lead Case)
(Jointly Administered)
Chapter 11

In re
KS MATTSON PARTNERS, LP,
Debtor.

**[PROPOSED] INTERIM ORDER
(I) AUTHORIZING THE DEBTOR TO
OBTAIN POST-PETITION SECURED
FINANCING PURSUANT TO SECTION 364
OF THE BANKRUPTCY CODE; (II)
AUTHORIZING THE USE OF THE DIP**

¹ The last four digits of LeFever Mattson's tax identification number are 7537. The last four digits of the tax identification number for KS Mattson Partners, LP ("KSMP") are 5060. KSMP's address for service is c/o Stapleton Group, 514 Via de la Valle, Solana Beach, CA 92075. The address for service on LeFever Mattson and all other Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 9562. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://veritaglobal.net/LM>.

1 **LENDER'S CASH COLLATERAL; (III)**
2 **GRANTING SUPERPRIORITY**
3 **ADMINISTRATIVE EXPENSE CLAIMS;**
4 **(IV) MODIFYING THE AUTOMATIC**
5 **STAY; (V) SCHEDULING A FINAL**
6 **HEARING; AND (VI) GRANTING**
7 **RELATED RELIEF**

8 Date: TBD

9 Time: TBD

10 Place: (In Person or Via Zoom)

11 United States Bankruptcy Court

12 1300 Clay Street, Courtroom 215

13 Oakland, CA 94612

14 [No Hearing Requested]

1 Upon the motion (the “Motion”),² of the above-captioned debtor and debtor in possession (the
2 “Debtor”), in chapter 11 Case No. 24-10715 (the “Case” or “KSMP Case”), pursuant to sections
3 105, 361, 362, 363, 364(c)(1), 364(c)(2), section 364(c)(3) and 364(e) of Title 11 of the United States
4 Code, 11 U.S.C. §§101, et seq. (the “Bankruptcy Code”), and Rules 2002, 4001(c), and 9014 of the
5 Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the corresponding local rules of
6 the District Court (the “Local Rules”), and the *Guidelines for Cash Collateral & Financing Motions*
7 & *Stipulations* (the “Guidelines”), seeking, among other things:

- 8 i. authorizing the Debtor to obtain post- petition loans, advances and other financial
9 accommodations (the “DIP Loans”) in an amount up to \$1 million on an interim basis for
10 a period (the “Interim Period”) through and including the earlier of (a) the Termination
11 Date (as defined in the Term Sheet), and (b) the date of the Final Hearing (as defined
12 below) from Serene Investment Management LLC (in such capacity, the “DIP Lender”),
13 in accordance with all of the terms and conditions set forth in the Term Sheet (as defined
14 below), and in accordance with this Order, secured by first priority security interests in
15 and liens upon all of the DIP Collateral (as defined below) pursuant to section 364(c) of
16 the Bankruptcy Code;
- 17 ii. authorizing the Debtor to enter into, be bound by, and perform under a debtor in
18 possession credit facility (the “DIP Facility”), pursuant to a Term Sheet dated as of
19 [•], by and among the Borrower and the DIP Lender, which agreement is attached hereto
20 as **Exhibit 1** (the “Term Sheet”);
- 21 iii. modifying the automatic stay to the extent hereinafter set forth;
- 22 iv. granting to the DIP Lender first priority DIP Liens (as defined below) on the DIP
23 Collateral (as defined below) that is currently unencumbered to secure the DIP Facility
24 and all obligations owing and outstanding thereunder and under the Term Sheet, as
25 applicable, and this Interim Order and the Final Order (as defined below), as applicable
26 (collectively, the “DIP Obligations”), subject only to prior payment of the Carve-Out (as
27
28

² Capitalized terms not otherwise defined herein shall have the meanings set forth in the Motion

- defined below), pursuant to section 364(c)(2) of the Bankruptcy Code;
- v. granting the DIP Lender second priority DIP Liens (as defined below) on the DIP Collateral (as defined below) that is currently encumbered by first priority liens to secure the DIP Facility and the DIP Obligations, subject only to prior payment of the Carve-Out (as defined below), pursuant to section 364(c)(3) of the Bankruptcy Code.
 - vi. granting the DIP Lender third priority DIP Liens (as defined below) on the DIP Collateral (as defined below) that is currently encumbered by first and second priority liens to secure the DIP Facility and the DIP Obligations, subject only to prior payment of the Carve-Out (as defined below), pursuant to section 364(c)(3) of the Bankruptcy Code.
 - vii. granting the DIP Lender fourth priority DIP Liens (as defined below) on the DIP Collateral (as defined below) that is currently encumbered by first, second, and third priority liens to secure the DIP Facility and the DIP Obligations, subject only to prior payment of the Carve-Out (as defined below), pursuant to section 364(c)(3) of the Bankruptcy Code.
 - viii. granting the DIP Lender allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all amounts advanced under the Term Sheet;
 - ix. authorizing the Debtor to pledge the DIP Collateral and the Debtor to use the proceeds of the DIP Loans (collectively, the “Cash Collateral”) in accordance with the Approved Budget (as defined below) for the Interim Period;
 - x. authorizing the Debtor to use the proceeds of DIP Loans, subject to the terms, restrictions, and other conditions of the Term Sheet and this Interim Order, to fund working capital in the ordinary course of the business of the Borrower and the Carve-Out Account (as defined below), and for other general corporate purposes, in each case, to the extent set forth in the Approved Budget and permitted under the Term Sheet;
 - xi. setting a Final Hearing (as defined below) on the Motion; and

xii. waiving, to the extent applicable, any stay of the immediate effectiveness of this Interim Order imposed by the Bankruptcy Code or the Bankruptcy Rules, such that this Interim Order shall be immediately effective upon its entry on the Court's docket.

The initial hearing on the Motion was held by this Court on [•] (the "Interim Hearing"); and it appearing that due and appropriate notice of the Motion, the relief requested therein, and the Interim Hearing (the "Notice") was served by the Debtor in accordance with Bankruptcy Rule 4001(c) on (i) the United States Trustee, (ii) the DIP Lender, (iii) the Secured Lenders, (iv) the parties listed on the *Debtor's List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders*, (v) taxing authorities for those counties in which the Debtor owns real property, (vi) the Committee of Unsecured Creditors in the Lefever Mattson matter, and (vii) those persons who have formally appeared in this KSMP case and requested service pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"); and

This Court having reviewed the Motion and any responses and objections thereto, the *Declaration of Robbin Itkin in Support of the Debtor's Motion to Obtain Post-Petition Financing* (the "Itkin Declaration"), the other filings made by the Debtor, and the evidence and testimony presented at the Interim Hearing; and it appearing that granting the relief requested in the Motion on an interim basis is necessary to avoid immediate and irreparable harm to the Debtor, and is otherwise fair and reasonable and in the best interests of the Debtor, its Estate and its creditors, and is essential for the preservation of the value of the Debtor's property; and all objections, if any, to the entry of this Interim Order having been withdrawn, resolved or overruled by the Court; and after due deliberation and consideration and good and sufficient cause appearing therefor,

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

A. Relief Date. On November 22, 2024 (the "Petition Date"), the Debtor became subject to an involuntary petition for relief under chapter 11 of the Bankruptcy Code. On June 9, 2025 (the "Relief Date"), the Court entered the *Stipulated Order for Relief in an*

1 *Involuntary Case* (Docket No. 131). The Debtor continues as debtor-in-possession
2 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3 B. Jurisdiction and Venue. The Court has jurisdiction over this Case and the parties and
4 property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Venue in this Court over
5 the Cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

6 C. Notice. Under the circumstances, the notice given by the Debtor of the Motion, the Interim
7 Hearing and the relief granted under this Order constitutes due and sufficient notice thereof
8 and complies with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002 and
9 4001(c).

10 D. Findings Regarding the Post-Petition Financing. Without prejudice to the rights of any
11 other non-Debtor party in interest, the Debtor admits, stipulates, acknowledges and agrees,
12 and the Court hereby finds, that:

13 i. The Debtor has requested from the DIP Lender, and the DIP Lender is willing to
14 extend, the DIP Loans to the Borrower on the terms and conditions set forth in this
15 Order and the Term Sheet.

16 ii. Need for Post-petition Financing. The Debtor does not have sufficient available
17 sources of working capital, including cash collateral, to pay administrative
18 expenses, including professional fees, and conclude a sale of its assets without the
19 financing requested under the Motion. The ability of the Debtor to obtain sufficient
20 working capital and liquidity through the proposed post-petition financing
21 arrangements with the DIP Lender as set forth in this Order and the Term Sheet is
22 vital to the Debtor's ability to maximize the value of the assets of its bankruptcy
23 Estate (as defined under section 541 of the Bankruptcy Code, the "Estate") through
24 an orderly process, including to maintain the Properties by paying for utilities and
25 insurance. Accordingly, the Debtor has an immediate need to obtain the post-
26 petition financing in order to, among other things, preserve and maximize the
27 value of the assets of its Estate and conduct an orderly sales process.
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- iii. No Credit Available on More Favorable Terms. The Debtor is unable to procure financing in the form of unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code, as an administrative expense under section 364(a) or (b) of the Bankruptcy Code, or solely based on the grant of an administrative expense priority pursuant to section 364(c)(1) of the Bankruptcy Code. The Debtor is also unable to obtain secured credit allowable solely under section 364(c)(2) or 364(c)(3) of the Bankruptcy Code. The Debtor has been unable to procure the necessary financing on terms more favorable than the financing offered by the DIP Lender pursuant to the Term Sheet.
 - iv. Budget. The Debtor has prepared and delivered to the DIP Lender an itemized cash-flow forecast that is acceptable to the DIP Lender (as may be modified from time to time in accordance with this Interim Order and the written consent of the DIP Lender, the “Approved Budget”). The Approved Budget was attached to the Motion and is attached hereto as **Exhibit 2**. The Approved Budget sets forth, among other things, projections for the periods covered thereby. The DIP Lender is relying upon the Borrower’s compliance with the Approved Budget (as further described in Section 2.4.1 of this Interim Order) in accordance with the terms of the Term Sheet and this Interim Order in determining to enter into the post-petition financing arrangements and consent to the use of Cash Collateral provided for herein, subject to the restrictions set forth herein.
 - v. No Additional Post-Petition Borrowing. Until such time as all DIP Obligations are indefeasibly paid in full in cash, the Debtor shall not, without the DIP Lender’s consent, in any way or at any time seek allowance of any administrative expense claim in this Case that are senior to or *pari passu* with the DIP Lender, including, without limitation, claims for any administrative expenses of the kind specified in, or arising or ordered under sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 552(b), 726, 1113 and 1114 of the Bankruptcy Code

1 that is superior to or *pari passu* with the Superpriority Claim (as defined below)
2 provided herein, except with respect to the Carve-Out.

3 vi. Business Judgment and Good Faith Pursuant to Section 364(e). The terms of the Term
4 Sheet and this Order reflect the Debtor's exercise of its prudent business judgment and
5 are supported by reasonably equivalent value and fair consideration. The terms and
6 conditions of the Term Sheet and this Order have been negotiated in good faith and at
7 arms' length by and among the Debtor and the DIP Lender, with all parties being
8 represented by counsel. Any credit extended under the terms of this Order shall be
9 deemed to have been extended in good faith by the DIP Lender, as that term is used in
10 section 364(e) of the Bankruptcy Code.

11 vii. Good Cause. The relief requested in the Motion and granted pursuant to the terms
12 of this Order is necessary, essential, and appropriate, and is in the best interest of
13 and will benefit the Debtor, its creditors, and its estates, as its implementation will,
14 among other things, provide the Debtor with the necessary liquidity to preserve
15 and maximize the value of the Estate for the benefit of all the Debtor's creditors,
16 and avoid immediate and irreparable harm to the Debtor, its creditors, and its
17 assets.

18 viii. Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order
19 pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in the Case has filed
20 or made an objection to the relief sought in the Motion or the entry of this Order,
21 or any objections that were made (to the extent such objections have not been
22 withdrawn or resolved) are hereby overruled.

23
24 Based on the foregoing, it is hereby **ORDERED, ADJUDGED, AND DECREED, THAT:**

25 **Section 1. Authorization and Conditions to Financing.**

26 1.1 Motion Granted. The Motion is GRANTED in accordance with Bankruptcy
27 Rule 4001(c)(2) to the extent provided in this Order. Any objections to the Motion with respect to
28 entry of this Interim Order to the extent not withdrawn, waived or otherwise resolved, and all

1 reservations of rights included therein, are hereby denied and overruled on the merits. This Order
2 shall hereinafter be referred to as the “Interim Order.”

3 1.2 Authorization to Borrow and Use Loan Proceeds. The Borrower is hereby
4 authorized to enter into, be bound by, and perform under the Term Sheet and to immediately borrow an
5 aggregate amount not to exceed \$1 million during the Interim Period, provided that disbursements of such
6 amount are in accordance with the Approved Budget, the Term Sheet, and this Interim Order. Upon the
7 entry of this Interim Order, the Borrower shall be authorized to use the DIP Collateral (as defined below),
8 including Cash Collateral (subject to, among other things, satisfaction of the conditions, covenants and
9 terms set forth in this Interim Order), to execute and deliver all instruments and documents which may be
10 required or necessary for the performance by the Debtor under the DIP Facility and the creation and
11 perfection of the DIP Liens described in and provided for by this Interim Order and the DIP Facility, and
12 to draw on the DIP Facility to make any disbursement as specifically provided in the Approved Budget
13 (subject to the variances as set forth in the Term Sheet and this Interim Order), but solely in accordance
14 with the terms and conditions set forth in this Interim Order and the Term Sheet.
15

16 1.3 Term Sheet.

17 1.3.1 Approval. The Term Sheet and each term, condition, and covenant set
18 forth therein are approved. All of such terms, conditions, and covenants shall be sufficient and
19 conclusive evidence of the borrowing arrangements by and among the Borrower and the DIP Lender,
20 and of the Debtor’s assumption and adoption of all of the terms, conditions, and covenants of the Term
21 Sheet for all purposes, including, without limitation, to the extent applicable, the payment when due of
22 all DIP Obligations arising thereunder, including, without limitation, all principal, interest, and such
23 fees and expenses, including, without limitation, all of the DIP Lender’s consultant fees and
24 professional fees (including attorney fees and expenses) as more fully set forth in (and limited by) the
25 Term Sheet and further provided below, are hereby approved.

26 1.3.2. Amendment. Subject to the terms and conditions of the Term Sheet, the
27 Debtor and the DIP Lender may amend, modify, supplement, or waive any provision of the Term Sheet
28 (an “Amendment”) without further approval or order of the court, provided that any material

1 Amendment shall require advance notice and opportunity to object of no less than five (5) business days
2 to the U.S. Trustee, and to any committee of unsecured creditors (a “Creditors’ Committee”) that may be
3 appointed or deemed appointed in this KSMP Case, and, if any such party objects to the Amendment
4 within the five (5) day notice period, the Debtor may not agree to the Amendment without further order
5 of the Court.

6 **Section 2. Authorization and Conditions to Financing.** The DIP Lender shall have no
7 obligation to make any loans under the Term Sheet unless the conditions precedent to making such loans
8 under the Term Sheet have been satisfied in full or waived by the Lender in its sole discretion.

9
10 2.1 Priority and Liens.

11 2.1.1. Lien Grant. To secure the prompt payment and performance of any and
12 all obligations of the Borrower to the DIP Lender of whatever kind, nature or description, absolute or
13 contingent, now existing or hereafter arising, the DIP Lender shall have and is hereby granted,
14 effective as of the Effective Date (as defined below), (A) valid and perfected first priority security
15 interests and liens, superior to all other liens, claims or security interests that any creditor of the Debtor
16 may have (but subject to the Carve-Out (as defined below) in and upon the Unencumbered DIP
17 Collateral (as defined below)) (the “First Priority DIP Liens”); (B) valid and perfected second priority
18 security interests and liens (subject to the Carve-Out (as defined below)) in and upon certain of the
19 Encumbered DIP Collateral (as defined below) (the “Second Priority DIP Liens”); (C) valid and
20 perfected third priority security interests and liens (subject to the Carve-Out (as defined below)) in and
21 upon certain of the Encumbered DIP Collateral (as defined below) (the “Third Priority DIP Liens”);
22 and (D) valid and perfected fourth priority security interests and liens (subject to the Carve-Out (as
23 defined below)) in and upon the certain of the Encumbered DIP Collateral (as defined below) (the
24 “Fourth Priority DIP Liens” and, collectively with the First Priority DIP Liens, the Second Priority
25 DIP Liens, and the Third Priority DIP Liens, the “DIP Liens”).

26 2.1.2. DIP Collateral. For purposes of this Interim Order, the term “DIP
27 Collateral” encompasses both the Unencumbered DIP Collateral, and the Encumbered DIP Collateral.
28 The “Unencumbered DIP Collateral” means the real property assets of the Debtor located at:

- 1 2500 Castle Rd, Sonoma, CA 95476
- 2 3200 Castle Rd, Sonoma, CA 95476
- 3 443 Casabonne Lane, Sonoma, CA 95476
- 4 62 Farragut Ave. B, Piedmont, CA 94610
- 5 904 Highway 121, Sonoma, CA 95476
- 6 23105 Millerick Rd, Sonoma, CA 95476

The “Encumbered DIP Collateral” means the real property assets of the Debtor located at:

- 1 454 15th St, Del Mar, CA 92014
- 2 405 London Way, Sonoma, CA 95476
- 3 415 Pacific Ave, Piedmont, CA 94611
- 4 3003 Castle Rd, Sonoma, CA 95476
- 5 1014 1st St W, Sonoma, CA 95476
- 6 22 Boyes Blvd, Boyes Hot Springs, CA 95476
- 7 856 4th St E, Sonoma, CA 95476
- 8 969 Rachael Rd, Sonoma, CA 95476
- 9 62 Farragut Ave. A, Piedmont, CA 94610
- 10 1834-1836 Ocean Front, Del Mar, CA 92014
- 11 531-533 Camino Del Mar, CA 92014

The DIP Lender shall receive a first priority lien on all Unencumbered DIP Collateral, subject only to the Carve-Out. The DIP Lender shall receive a second third, or fourth priority lien on the Encumbered DIP Collateral, subject to the Carve-Out and permitted first, second, or third priority liens on the Encumbered DIP Collateral, as applicable. The Encumbered DIP Collateral is subject to the following priority scheme: (a) the Fourth Priority DIP Liens shall encumber only the Encumbered DIP Collateral with an address at 1834 Ocean Front, Del Mar, CA 92014; (b) the Third Priority DIP Liens shall encumber only the Encumbered DIP Collateral with an address at 22 Boyes Blvd, Boyes Hot Springs, CA 95476 and 969 Rachael Rd, Sonoma, CA 95476; and (c) the Second Priority DIP Liens shall encumber the remaining Encumbered DIP Collateral

1 2.1.3. Lien Priority. The First Priority DIP Liens on the Unencumbered DIP
2 Collateral shall be first and senior in priority to all other interests and liens of every kind, nature and
3 description, whether created consensually, by an order of the Court or otherwise, including, without
4 limitation, liens or interests granted in favor of third parties in conjunction with sections 363, 364 or any
5 other section of the Bankruptcy Code or other applicable law. The Second Priority DIP Liens, the Third
6 Priority DIP Liens, and the Fourth Priority DIP Liens shall be junior in priority to the secured claims
7 encumbering the Encumbered DIP Collateral, and senior in priority to all other interests and liens of every
8 kind, nature and description, whether created consensually, by an order of the Court or otherwise, including,
9 without limitation, liens or interests granted in favor of third parties in conjunction with sections 363, 364 or
10 any other section of the Bankruptcy Code or other applicable law; provided, however, that the DIP Liens
11 shall be subject to the Carve-Out to the extent provided for in Section 2.3 of this Interim Order. The DIP
12 Liens, and the Superpriority Claim (as defined below) (a) shall not be subject to sections 510, 542, 549, 550,
13 or 551 of the Bankruptcy Code or, subject to entry of the Final Order) the “equities of the case” exception of
14 section 552 of the Bankruptcy Code, or, subject to entry of the Final Order, section 506(c) of the Bankruptcy
15 Code, (b) shall be senior in priority to (y) any lien that is avoided and preserved for the benefit of the
16 Borrower and its Estate under section 551 of the Bankruptcy Code or otherwise and (z) any intercompany or
17 affiliate liens or claims against the Debtor, and (c) shall be valid and enforceable against any trustee or any
18 other estate representative appointed or elected in the Cases, whether upon the conversion of the Case to a
19 case under chapter 7 of the Bankruptcy Code or appointed in this Case prior to conversion, or in any other
20 proceedings related to any of the foregoing (each, a “Successor Case”), and/or upon the dismissal of this
21 Case or any Successor Case.

22
23 2.1.4. Enforceable Obligations. The Term Sheet shall constitute and evidence
24 the valid and binding DIP Obligations of the Borrower, which DIP Obligations shall be enforceable
25 against the Debtor, its Estate, and any successors thereto (including, without limitation, any trustee or
26 other Estate representative in any Successor Case), and their creditors, in accordance with their terms.
27 No obligation, payment, transfer, or grant of security under the Term Sheet or this Interim Order shall
28 be stayed, restrained, voidable, avoidable, disallowable, or recoverable under the Bankruptcy Code or

1 under any applicable law (including, without limitation, under section 502(d) or based on any
2 Avoidance Actions), or subject to any avoidance, disallowance, impairment, reduction, setoff, offset,
3 recoupment, recharacterization, disgorgement, subordination (whether equitable, contractual, or
4 otherwise), counterclaim, cross-claim, defense, surcharge, or any other challenge under the Bankruptcy
5 Code or any applicable law or regulation by any person or entity. All interest, fees paid or payable, and
6 all reasonable costs and expenses reimbursed or reimbursable (including, without limitation, all fees,
7 costs and expenses referred to in the Term Sheet and the DIP Lender's reasonable attorneys' fees and
8 expenses), by the Debtor to the DIP Lender are hereby approved.
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10 2.1.5. Post-Petition Lien Perfection. This Interim Order shall be sufficient and
11 conclusive evidence of the priority, perfection, and validity of the DIP Liens, effective as of date of entry
12 of this Interim Order (the "Effective Date"), without any further act and without regard to any other
13 federal, state, or local requirements or law requiring notice, filing, registration, recording or possession of
14 the DIP Collateral, or other act to validate or perfect such security interest or lien (each, a "Perfection
15 Act"). Notwithstanding the foregoing, if the DIP Lender shall, in its sole discretion, elect for any reason to
16 file, record, or otherwise effectuate any Perfection Act, the DIP Lender is authorized to perform such act,
17 and the Debtor is authorized and directed to perform such act to the extent necessary or reasonably
18 required by the DIP Lender, which act or acts shall be deemed to have been accomplished as of the
19 Effective Date, notwithstanding the date and time actually accomplished, and in such event, the subject
20 filing or recording office is authorized to accept, file, and/or record any document in regard to such act in
21 accordance with applicable law. The DIP Lender may choose to file, record, or present a certified copy of
22 this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act,
23 and, in such event, the subject filing or recording office is authorized to accept, file, and/or record such
24 certified copy of this Interim Order in accordance with applicable law. Should the DIP Lender so choose
25 and attempt to file, record, and/or perform a Perfection Act, no defect or failure in connection with such
26 attempt shall in any way limit, waive or alter the validity, enforceability, attachment, or perfection of the
27 post-petition liens and security interests granted herein by virtue of the entry of this Interim Order.
28

1 2.2. Superpriority Administrative Expense. For all DIP Obligations now existing or
2 hereafter arising pursuant to this Interim Order, the Term Sheet, or otherwise, the DIP Lender is granted
3 an allowed superpriority administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy
4 Code against the Borrower, having priority in right of payment over any and all other obligations,
5 liabilities, and indebtedness of the Borrower, whether now in existence or hereafter incurred by either of
6 them, including, without limitation, all administrative expenses of the kind specified in sections 503(b)
7 and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising
8 under, inter alia, sections 105, 326, 328, 330, 331, 364, 365, 503(b), 506(c) (subject to entry of the Final
9 Order), 507(a), 507(b), 546, 552(b), 726, 1113, or 1114 of the Bankruptcy Code or any other provision of
10 the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or
11 other non-consensual lien, levy, or attachment (the “Superpriority Claim”); provided, however, that the
12 Superpriority Claim shall be subject only to the payment of the Carve-Out. The Superpriority Claim shall,
13 for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, be considered an administrative expense
14 allowed under section 503(b) of the Bankruptcy Code, shall be against the Borrower, and shall be payable
15 from and have recourse to all prepetition and postpetition property of the Borrower and all proceeds
16 thereof, subject only to the Carve-Out and excluding proceeds of any avoidance actions pursuant to
17 chapter 5 of the Bankruptcy Code or applicable state law equivalents (collectively, “Avoidance Actions”),
18 any commercial tort claims (“Commercial Tort Claims”) and any claims against the Debtor’s directors
19 and officers (the “D&O Claims”) which arose prior to the Relief Date and which proceeds shall not be
20 available to pay the Superpriority Claim. Other than as expressly provided in the Term Sheet and this
21 Interim Order with respect to the Carve-Out, no costs or expenses of administration, including, without
22 limitation, professional fees allowed and payable under sections 326, 328, 330, or 331 of the Bankruptcy
23 Code, or otherwise, that have been or may be incurred in this Case, or in any Successor Case, and no
24 priority claims are, or will be, senior to, prior to, or on a parity with the Superpriority Claim or the DIP
25 Obligations, or with any other claims of the DIP Lender arising hereunder.

26
27 2.3. Carve-Out. The Carve-Out is an amount equal to the sum of (i) all fees required
28 to be paid to the clerk of the Bankruptcy Court and to the Office of the United States Trustee under

1 section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard
2 to the notice set forth in (iii) below); (ii) fees and expenses of up to \$25,000 incurred by a trustee
3 under section 726(b) of the Bankruptcy Code (which is included in the notice set forth in (iii) below);
4 and (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise,
5 all unpaid fees and expenses (the "Allowed Professional Fees") incurred by persons or firms
6 ("Professional Persons") retained by the Borrower after the Relief Date, whose retention is approved by
7 this Court pursuant to sections 327, 328 or 363 and 1103 of the Bankruptcy Code, at any time before or
8 on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as
9 defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger
10 Notice, and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to
11 exceed \$250,000 incurred after the first business day following delivery by the DIP Lender of the
12 Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural
13 order, or otherwise (the amounts set forth in this clause (iv) being the "Post-Carve Out Trigger Notice
14 Cap"); *provided*, that (x) (1) the failure of the Carve-Out Account to satisfy in full the Allowed
15 Professional Fees shall not affect the priority of the Carve-Out (or the obligations benefiting
16 therefrom) as provided herein or in the Interim Order or Final Order (as applicable) and (2) in no way
17 shall the Approved Budget, Carve-Out, Post Carve-Out Trigger Notice Cap, or any of the foregoing
18 be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable
19 by the Debtor; and (y) nothing herein shall be construed to impair the ability of any party to object to
20 the fees, expenses, reimbursement or compensation described in clauses (i), (ii), (iii) or (iv) above, on
21 any grounds. The Carve-Out shall be funded to an administrative reserve account (the "Carve-Out
22 Account") in an amount equal to the unpaid Allowed Professional Fees plus the Post-Carve Out
23 Trigger Notice Cap, which account shall be used to pay Professional Fees and any unpaid fees to the
24 United States Trustee. As cash flow permits, and assuming no issuance of a Carve-Out Trigger
25 Notice, the Debtor shall pay the amounts for Allowed Professional Fees into the Carve-Out Account.
26 Any shortfall in the Carve-Out Account shall be funded first from the DIP Facility in an amount that
27 shall not cause the DIP Loan to exceed the Maximum DIP Facility Amount (delivery of the Carve
28

1 Out Trigger Notice shall be deemed a request by the Debtor for DIP Loan under the DIP Facility in
2 an amount equal to the Post-Carve Out Trigger Notice Cap) and second from the net proceeds of the
3 Collateral resulting from a sale of the Collateral outside the ordinary course of business (which
4 constitutes an event triggering mandatory prepayment of the DIP Loan). Notwithstanding the
5 foregoing, the Carve-Out shall not include, apply to or be available for any fees or expenses incurred
6 by any party in connection with (a) the investigation, initiation or prosecution of any claims, causes
7 of action, adversary proceedings or other litigation against the DIP Lender or its officers, directors
8 and professionals; (b) attempts to adversely modify any of the rights granted to the DIP Lender; (c)
9 attempts to prevent, hinder or otherwise delay the DIP Lender's assertion, enforcement or realization
10 upon any Collateral in accordance with the DIP and DIP Loan Financing Documents; (d) paying any
11 amount on account of any claims arising before the Relief Date unless such payments are approved
12 by an order of the Bankruptcy Court; or (e) after delivery of a Carve-Out Trigger Notice, any success,
13 completion, back-end or similar fees. Notwithstanding anything to the contrary herein, the Carve-Out
14 shall be senior to all liens and claims securing the DIP Facility and DIP Loan, any adequate
15 protection liens, if any, the Superpriority Claim and any and all other liens or claims existing
16 pursuant to the DIP Facility and DIP Loan. For purposes of the foregoing, "Carve Out Trigger
17 Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Lender
18 to the Debtor's lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors' Committee,
19 if any, which notice may be delivered following the occurrence and during the continuation of an
20 Event of Default and acceleration of the DIP Loans under the DIP Facility, stating that the Post-Carve
21 Out Trigger Notice Cap has been invoked.

23 2.4. Use of Cash Collateral; Reporting and Other Rights.

24 2.4.1. Authorization to Use Cash Collateral. Subject to the terms and conditions of
25 this Interim Order and the Term Sheet, the Debtor shall be and is hereby authorized to use the Cash
26 Collateral in accordance with, and solely and exclusively for the disbursements set forth in, the Approved
27 Budget. The Approved Budget shall set forth, on a weekly and on a line item basis, (i) projected cash
28 receipts, (ii) projected disbursements, and (iii) net cash flow, for the first thirteen (13) week period

beginning July 27, 2025 and in the event that projected receipts are less than, or disbursements exceed, 20% in the aggregate (with any aggregate excess collections in subparagraph (i) or aggregate unspent amounts in subparagraph (ii) being carried forward for the subsequent week), an “Event of Default” shall be deemed to have occurred. The Debtor shall, commencing on August 4, 2025, deliver to the DIP Lender, by not later than Thursday of every other week, a certificate (in form and substance acceptable to the DIP Lender) showing a reconciliation for the prior four-week cumulative period and certifying that the Debtor is in compliance with the Approved Budget. The Approved Budget shall be updated, modified, or supplemented by the Debtor not less than one time in each four (4) consecutive week period, and each such updated, modified, or supplemented budget shall be approved in writing (including by email) by, and shall be in form and substance satisfactory to, the DIP Lender, and no such updated, modified or supplemented budget shall be effective until so approved. In the event the Debtor fails to update, modify or supplement the Budget during a four (4) consecutive week period, and fails to do so within two business days after receiving written notice from the DIP Lender, the Borrower’s right to use Cash Collateral shall terminate.

2.4.2. Inspection Rights. As an additional condition to the use of the Cash Collateral, the Debtor shall, upon reasonable prior written notice (including via email) and during normal business hours, permit representatives, agents, and employees of the DIP Lender to have reasonable access to: (i) inspect the Property; (ii) examine the Debtor's books and records, including with respect to the Property, and (iii) discuss the Debtor's affairs, finances, and condition with the Debtor's officers, management, financial advisors, attorneys and consultants.

Section 3. Default; Rights and Remedies; Relief from Stay.

3.1. Events of Default. It shall be an “Event of Default” under this Interim Order if an “Event of Default” as defined in the Term Sheet occurs (together with the passage of any applicable cure period set forth therein). It shall not be an Event of Default under this Interim Order if an “Event of Default” occurs with respect to any other debtor entity with whom the KSMP Case is jointly administered.

3.2. Rights and Remedies Upon Events of Default. Upon the occurrence of an Event of Default, (x) the DIP Lender may declare (i) the termination, reduction or restriction of any

1 further commitment to the extent any such commitment remains, (ii) all obligations to be
2 immediately due and payable, without presentment, demand, protest, or other notice of any kind, all
3 of which are expressly waived by the Debtor, and (iii) the termination of the DIP Facility and the DIP
4 Financing Documents as to any future liability or obligation of the DIP Lender, but without affecting
5 any of the liens or the obligations under the DIP Facility and (y) upon the giving of five (5) business
6 days' notice to the Debtor, counsel to any Creditors' Committee and the U.S. Trustee, (the "Remedies
7 Notice Period"), exercise all other rights and remedies provided for in the DIP Financing Documents
8 and applicable law. During the Remedies Notice Period, Lender shall not be required to make
9 advances under the DIP Facility and any party in interest shall be entitled to seek an emergency
10 hearing with the Bankruptcy Court to be held prior to the expiration of the Remedies Notice Period,
11 for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing.
12

13 3.3 Relief from the Automatic Stay. The automatic stay otherwise applicable to the
14 DIP Lender is modified to the extent necessary to (i) exercise its rights and remedies with respect to
15 the Collateral (as applicable), subject to the Remedies Notice Period, (ii) implement the postpetition
16 financing arrangements authorized by this Interim Order and pursuant to the terms of the Term Sheet,
17 (iii) take any act to create, validate, evidence, correct, attach or perfect any lien, security interest,
18 right or claim in the DIP Collateral, and (iv) upon the occurrence and continuation of an Event of
19 Default, (a) declare the DIP Loans and all other obligations under the DIP Facility to be due and
20 payable; (b) refuse to extend any further DIP Loans under the DIP Facility, and/or (c) subject only to
21 the Carve-Out, terminate the use of cash collateral securing payment of any obligations under the DIP
22 Facility or the DIP Financing Documents.

23 **Section 4.** Good Faith. The terms of this Interim Order were negotiated in good faith and
24 arm's length by and among the Debtor and the DIP Lender. The DIP Lender shall be entitled to the
25 full protections of section 364(e) of the Bankruptcy Code.

26 **Section 5.** Collateral Rights.
27
28

1 5.1. Collateral Rights. Until all of the DIP Obligations shall have been
2 indefeasibly paid and satisfied in full, no other party shall foreclose or otherwise seek to enforce any
3 lien or claim in any DIP Collateral.

4 5.2. Limitation on Charging Expenses Against Prepetition Collateral. Subject to
5 entry of the Final Order, all rights to surcharge the interests of the DIP Lender in the DIP Collateral
6 under section 506(c) of the Bankruptcy Code or any other applicable principle or equity or law shall
7 be and are hereby finally and irrevocably waived, and such waiver shall be binding upon the Debtor
8 and all parties in interest in the Cases. No action, inaction, or acquiescence by the DIP Lender,
9 including permitting the use of Cash Collateral to fund the Debtor's ongoing operations, shall be
10 construed as consent to a charge against the Prepetition Collateral pursuant to Bankruptcy Code
11 sections 105(a) or 506(c).

12 5.3. No Marshaling. The DIP Lender shall not be subject to the equitable doctrine
13 of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.

14 **Section 6. Other Rights and Obligations.**

15 6.1. No Modification or Stay of This Interim Order. Notwithstanding Bankruptcy
16 Rules 4001(a)(3), 6004(h), 6006(d), 7062, 9024, or any other Bankruptcy Rule, or Rule 62(a) of the
17 Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable
18 upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.
19 Notwithstanding (a) any stay, modification, amendment, supplement, vacating, revocation, or
20 reversal of this Interim Order, any of the Term Sheet or any term hereunder or thereunder, (b) the
21 failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (c) the dismissal or
22 conversion of the Case (each, a "Subject Event"), (i) the acts taken by the DIP Lender in accordance
23 with this Interim Order, and (ii) the DIP Obligations incurred or arising prior to the DIP Lender's
24 actual receipt of written notice from Debtor expressly describing the occurrence of such Subject
25 Event shall, in each instance, be governed in all respects by the original provisions of this Interim
26 Order, and the acts taken by the DIP Lender in accordance with this Interim Order and the Term
27 Sheet, and the DIP Liens granted to the DIP Lender in the DIP Collateral, and all other rights,
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1 remedies, privileges, and benefits in favor of the DIP Lender pursuant to this Interim Order and the
2 Term Sheet, shall remain valid and in full force and effect pursuant to section 364(e) of the
3 Bankruptcy Code.

4 6.2. Power to Waive Rights; Duties to Third Parties. The DIP Lender, in its sole
5 and absolute discretion, shall have the right to waive any of the terms, rights and remedies provided
6 or acknowledged in this Interim Order in respect of the DIP Lender (the “DIP Lender Rights”), with
7 any such waiver to be made in writing by the DIP Lender, and shall have no obligation or duty to any
8 other party with respect to the exercise or enforcement, or failure to exercise or enforce, any DIP
9 Lender Rights. Any waiver by the DIP Lender of any DIP Lender Rights shall not be or constitute a
10 continuing waiver. Any delay in or failure to exercise or enforce any DIP Lender Right shall neither
11 constitute a waiver of such DIP Lender Right, subject the DIP Lender to any liability to any other
12 party, nor cause or enable any other party to rely upon or in any way seek to assert a defense to any
13 obligation owed by the Debtor to the DIP Lender.
14

15 6.3. Reservation of Rights. The terms, conditions, and provisions of this Interim
16 Order are in addition to and without prejudice to the rights of the DIP Lender to pursue any and all
17 rights and remedies under the Bankruptcy Code, the Term Sheet (with respect to the DIP Lender), or
18 any other applicable agreement or law, including, without limitation, to seek relief from the automatic
19 stay, to seek an injunction, to oppose any request for use of cash collateral or granting of any interest
20 in the DIP Collateral or priority in favor of any other party, to object to any sale of assets, and to
21 object to applications for allowance and/or payment of compensation of professionals or other parties
22 seeking compensation or reimbursement from the Debtor.

23 6.4. Binding Effect of Interim Order.

24 6.4.1. Immediately upon entry by this Court, this Interim Order shall be valid
25 and binding upon and inure to the benefit of the DIP Lender, the Debtor and the property of the
26 Debtor’s Estate, all other creditors of any of the Debtor, and all other parties in interest and their
27 respective successors and assigns (including any chapter 11 or chapter 7 trustee or any other fiduciary
28

1 hereafter appointed as a legal representative of the Debtor), in the Case, any Successor Case, or upon
2 dismissal of the Case or Successor Case.

3 6.4.2. Any order dismissing the Case or any Successor Case under section
4 1112 or otherwise shall be deemed to provide (in accordance with sections 105 and 349 the
5 Bankruptcy Code) that (a) the Superpriority Claim and the DIP Liens shall continue in full force and
6 effect notwithstanding such dismissal until the DIP Obligations are indefeasibly paid and satisfied in
7 full, (b) this Court shall retain jurisdiction to the greatest extent permitted by applicable law,
8 notwithstanding such dismissal, for the purposes of enforcing the Superpriority Claim and the DIP
9 Liens. In the event any Court modifies any of the provisions of this Interim Order or the DIP
10 Financing Documents following a Final Hearing or otherwise, (i) such modifications shall not affect
11 the rights or priorities of the DIP Lender pursuant to this Interim Order with respect to the DIP
12 Collateral or any portion of the DIP Obligations which arises or is incurred or is advanced prior to
13 such modifications, and (ii) this Interim Order shall remain in full force and effect except as
14 specifically amended or modified at such Final Hearing.
15

16 6.5. Restrictions on Cash Collateral Use, Additional Financing, Plan Treatment. All
17 postpetition advances and other financial accommodations under the Term Sheet and the other DIP
18 Financing Documents, and the use of Cash Collateral, are made in reliance on this Interim Order and
19 there shall not at any time be entered in the Case, or in any Successor Case, any order (other than the
20 Final Order) which (a) authorizes the use of Cash Collateral of the Debtor in which the DIP Lender
21 has an interest, or the sale, lease, or other disposition of the DIP Collateral, except as expressly
22 permitted hereunder or in the Term Sheet, (b) authorizes the sale, lease, or other disposition of the
23 DIP Collateral, except as expressly permitted hereunder or in the Term Sheet, or (c) authorizes under
24 section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured
25 by a lien or security interest which is equal or senior to a lien or security interest in the DIP
26 Collateral, or which is entitled to priority administrative claim status which is equal or superior to that
27 granted to the DIP Lender herein unless, in each instance (i) the DIP Lender shall have given its
28 express prior written consent with respect thereto (such consent to be in the DIP Lender's absolute

1 and sole discretion and no such consent being implied from any other action, inaction, or
2 acquiescence by the DIP Lender) or (ii) such other order requires that all DIP Obligations shall first be
3 indefeasibly paid and satisfied in full in accordance with the terms of Term Sheet, including, without
4 limitation, all debts and obligations of the Debtor to the DIP Lender which arise or result from the
5 obligations, loans, security interests, and liens authorized herein, on terms and conditions acceptable
6 to the DIP Lender. The security interests and liens granted to or for the benefit of the DIP Lender
7 hereunder and the rights of the DIP Lender pursuant to this Interim Order shall not be altered,
8 modified, extended, impaired, or affected by any plan of reorganization or liquidation of the Debtor
9 without the express prior written consent of the DIP Lender (such consent to be in the DIP Lender's
10 absolute and sole discretion).

11
12 6.6. Term; Termination. Notwithstanding any provision of this Interim Order to the
13 contrary, the Term Sheet among the Debtor and the DIP Lender authorized by this Interim Order may
14 be terminated pursuant to the terms of the Term Sheet.

15 6.7. Objections Overruled. All objections to the entry of this Interim Order are, to
16 the extent not withdrawn or resolved, hereby overruled.

17 6.8. No Liability to Third Parties. With respect to any approval or disapproval of
18 expenditures set forth in the Approved Budget, the DIP Lender shall not: (a) be deemed to be in
19 "control" of the operations of the Debtor; (b) owe any fiduciary duty to the Debtor, its respective
20 creditors, shareholders, or estates; or (c) be deemed to be acting as a "Responsible Person" or
21 "Owner" or "Operator" with respect to the operation or management of the Debtor (as such terms or
22 similar terms are used in the United States Comprehensive Environmental Response, Compensation
23 and Liability Act of 1980 or any similar federal or state statute).

24 6.9. Payments Free and Clear. Any and all payments or proceeds remitted to the
25 DIP Lender and its professionals shall be received free and clear of any claim, charge, assessment, or
26 other liability. Any such payments, including for fees, costs and expenses, shall be paid by the
27 Borrower without the need for application to or order of the Court, provided, however, that
28 notwithstanding anything contained herein or in the DIP Facility, any invoices for fees, costs, and

1 expenses of the DIP Lender's professionals (including, but not limited to, professional fees, expenses,
2 or in house administration costs) shall be (i) provided to counsel to the Estate Notice Parties no more
3 than once per month; and (ii) the Estate Notice Parties shall have ten (10) days to review such fees,
4 costs, and expenses (the "Review Period") for reasonableness. In the absence of any written objection
5 to such fees, costs, and expenses, the Borrower shall be authorized to pay such amounts to the DIP
6 Lender or its professionals. In the event there is a timely written objection by any of the Estate Notice
7 Parties during the Review Period, the relevant Estate Notice Parties and the DIP Lender shall have
8 five (5) business days to resolve such objection. If such objection cannot be resolved, the objection
9 shall be filed by the objecting Estate Notice Party or Parties within fifteen (15) calendar days' after
10 conclusion of the Review Period (the "Objection Deadline"), which objection shall be limited to the
11 issue of the reasonableness of such fees and expenses, and shall be adjudicated by the Bankruptcy
12 Court. During the period in which a written objection is pending, the fees, costs, and expenses subject
13 to such objection may not be paid until the objection is resolved by the parties or adjudicated by the
14 Bankruptcy Court. Any DIP Lender fees, costs, and expenses that are not subject to a timely
15 objection may be paid following expiration of the Review Period.
16

17 **Section 7. Findings and Conclusions.** This Interim Order shall constitute findings of fact
18 and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be fully
19 enforceable, as of the Petition Date, immediately upon execution hereof. Notwithstanding
20 Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9024 or any other Bankruptcy Rule, or Rule
21 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and
22 enforceable upon its entry, and there shall be no stay of execution or effectiveness of this Interim
23 Order.

24 **Section 8. Interim Order Governs.** In the event that any provision of this Interim Order
25 conflicts with any term of the Term Sheet, this Interim Order shall govern.

26 **Section 9. Retention of Jurisdiction.** The Court has and will retain jurisdiction to interpret
27 and enforce the provisions of this Interim Order.
28

Section 10. Final Hearing and Response Dates. The Final Hearing on the Motion pursuant to Bankruptcy Rule 4001(c)(2) is scheduled for September [•], 2025, at__ (Pacific time) before this Court (the “Final Hearing”). The Debtor shall promptly mail copies of this Interim Order to the Notice Parties, and to any other party that has filed a request for notices with this Court. Any party interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon (a) counsel for the Debtor, Hogan Lovells US LLP, 1999 Avenue of the Stars, Suite 1400 Los Angeles, California 90067 (Attn: Richard L. Wynne, richard.wynne@hoganlovells.com and Erin N. Brady, erin.brady@hoganlovells.com); (b) counsel to the DIP Lender, Loeb & Loeb LLP, 10100 Santa Monica Blvd, Los Angeles, California 90067 (Attn: Lance N Jurich, ljurich@loeb.com and Vadim J Rubinstein, vrubinstein@loeb.com); and (c) the U.S. Trustee []; and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of California, in each case, to allow actual receipt of the foregoing no later than [•], 2025 by 4:00 p.m. prevailing Pacific time.

END OF ORDER

EXHIBIT 1

Term Sheet

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DIP TERM SHEET

July 29, 2025

This Term Sheet sets forth the proposed terms and conditions for debtor-in-possession financing facility (the **"DIP Facility"**) to be provided by Serene Investment Management, LLC, or an affiliate (the **"DIP Lender"**), to KS Mattson Partners, LP (the **"Debtor"**), subject to approval of the United States Bankruptcy Court for the Northern District of California, Santa Rosa Division (the **"Bankruptcy Court"**) presiding in the case captioned *In re: KS Mattson Partners, LP*, Case No. 24-10715, pending before the Bankruptcy Court.

This Term Sheet is non-binding and constitutes an expression of interest only; it shall become binding solely upon entry of an interim order of the Bankruptcy Court authorizing the DIP Facility (the **"Interim Order"**) pursuant to, inter alia, Bankruptcy Code sections 363 and 364.

The DIP Lender is prepared to fund the DIP Facility upon entry of the Interim Order and has extensive experience in providing debtor-in-possession financing, including in the pending jointly administered chapter 11 cases of *In re LeFever Mattson*, Case No. 24-10545 (the **"Bankruptcy Proceeding"**) and the affiliated matters pending before the Bankruptcy Court. Examples of prior DIP transactions may be reviewed at www.sereneim.com.

KS Mattson Partners, LP
\$4 Million Superpriority Senior Secured
Debtor-in-Possession Term Loan Facility with Delayed Draw Features

Borrower: KS Mattson Partners, LP, a California limited partnership (the **"Borrower"** or **"Debtor"**), as a debtor in proceedings (the **"Bankruptcy Case"**) under title 11 of the United States Code (the **"Bankruptcy Code"**) in the United States Bankruptcy Court for the Northern District of California – Santa Rosa Division (the **"Bankruptcy Court"**). The date of filing of the involuntary petition against the Debtor (November 22, 2024) shall be referred to herein as the **"Petition Date"** and the date of entry of the order for relief on the involuntary petition (June 9, 2025) shall be referred to herein as the **"Relief Date."**

DIP Lender: Serene Investment Management, LLC or an affiliate (the **"DIP Lender"**).

Facilities: A superpriority senior secured term loan facility (the **"DIP Facility,"** and the term loans to be made thereunder, the **"DIP Loans"**) in the maximum aggregate amount on the DIP Closing Date (as defined below) of **\$4,000,000** (the **"Maximum DIP Facility Amount"**), structured as a delayed draw facility. The Maximum DIP Facility Amount shall be calculated without reference to interest, fees, and expenses that constitute DIP Obligations (as defined below). Borrower may request draws in minimum increments as agreed upon with the DIP Lender.

Funding of the DIP Loans will be available in drawings on each of the Interim DIP Closing Date (as defined below), the DIP Closing Date (as defined below), and thereafter as set forth below.

Availability:

Upon entry of the Interim Order (as defined below), DIP Loans consisting of not more than \$1 million principal amount of the DIP Facility (the “**Interim DIP Loans**”) will be requested by the Borrower and funded by the DIP Lender on the Interim DIP Closing Date. The Interim DIP Loans shall be funded based on the terms set forth in this Term Sheet and the Approved Budget and shall not be subject to reversal or modification by the Bankruptcy Court, ensuring the estate retains the amounts advanced.

Upon entry of the Final Order (as defined below), DIP Loans (such Loans, the “**Final DIP Loans**”) will be requested by the Borrower and funded by the DIP Lender on the DIP Closing Date and thereafter to be used in accordance with the Approved Budget cash requirements for the subsequent periods (the “**Delayed DIP Draws**”). The total funding to the Debtor, inclusive of the Delayed DIP Draws, will not exceed the Maximum DIP Facility Amount. The DIP Loans will be secured by liens on (a) the real property assets of the Debtor and (b) a note held by the Debtor, and have the lien priority as set forth in Exhibit A (the “**Collateral Schedule**”).

DIP Financing Orders:

The Bankruptcy Court shall enter an interim order (the “**Interim Order**”) on or before August 6, 2025, and a final order on or before September 18, 2025 (the “**Final Order**,” and together with the Interim Order and amendments thereto prior to entry of the Final Order, the “**DIP Financing Orders**”), each in form and substance satisfactory to the DIP Lender in its sole and absolute discretion. The Interim Order shall, among other things, (i) approve this Term Sheet; (ii) authorize and approve the funding of the Interim DIP Loans; (iii) approve the Approved Budget; (iv) grant the superpriority claims and liens and other liens described in the section “**Security and Priority**” below, and (v) include such waivers, indemnities, and other provisions as are acceptable to the DIP Lender in its reasonable discretion, including a finding under Bankruptcy Code Section 364(e). The Final Order to be entered on or before the date that is 35 days after entry of the Interim Order, as part of a DIP Facility shall, among other things, (i) approve a loan and security agreement on the terms and conditions set forth herein and the DIP Financing Orders (collectively with other definitive documentation and agreements among the parties, the “**DIP Financing Documents**”); (ii) authorize and approve the funding of the DIP and Final DIP Loans after the Relief Date; (iii) approve the Approved Budget; (iv) grant the superpriority claims and liens and other liens described in the section “**Security and Priority**” below, and (v) include such waivers, indemnities, and other provisions as are acceptable to the DIP Lender in its reasonable discretion, including findings under Bankruptcy Code Sections 364(e), 506(c) and 552. The DIP Financing Orders shall not be vacated, reversed, modified, amended or stayed in any material respect without the prior written consent of the DIP Lender.

Maturity:

The DIP Loans shall mature upon the “**Termination Date**,” which shall be the earliest of:

(a) December 31, 2025;

(b) August 6, 2025, if the Final Order has not been entered by the Bankruptcy Court by September 18, 2025;

(c) the consummation of a sale of all of the DIP Lender's Collateral pursuant to an order or orders entered by the Bankruptcy Court, which must provide for payment in full of the DIP Facility Amount to the extent not paid previously;

(d) the substantial consummation of a plan of reorganization or a plan of liquidation for the Borrower that is confirmed pursuant to an order entered by the Bankruptcy Court, which must provide for payment in full of the DIP Facility Amount to the extent not paid previously; and

(e) the acceleration of the DIP Loans and the termination of the commitment with respect to the DIP Loans in accordance with the DIP Financing Documents.

Upon the Termination Date, all obligations under the DIP Facility and the DIP Financing Documents, including principal, interest, fees not previously paid, including attorneys' fees, and expenses (if any) (collectively, the "**DIP Obligations**") shall be due and payable.

Interest:

The DIP Loans shall bear interest at **16% per annum**, payable in kind. All accrued interest shall be capitalized to the outstanding principal balance and shall be due and payable at maturity or upon early repayment. Notwithstanding the foregoing, Borrower shall pay a minimum of six (6) months' accrued interest on the DIP Loans, regardless of early repayment.

Default Rate

4% (above the base rate).

Fees:

Borrower shall be responsible for all fees, costs, and expenses of the DIP Lender, including any and all expenses of the DIP Lender's counsel, professional advisors, including financial and real estate advisors, and in-house administration and shall reimburse such reasonable amounts within 10 days of being provided invoices therefor or in the manner set forth in the DIP Financing Orders, as further set forth below in (and subject to the limitations set forth in) the ***Expense and Indemnification*** section of this Term Sheet. In addition, the Borrower shall pay a one-time, non-refundable facility fee of \$120,000, which shall be payable in kind (**PIK**) and added to the principal balance on the DIP Closing Date.

Mandatory Prepayments:

Mandatory prepayment of the DIP Loan and DIP Loan and any applicable outstanding fees and expenses, shall be required with (a) 100% of the cash proceeds received for the incurrence of indebtedness outside the ordinary course of business by the Borrower and not permitted by the express written consent of the DIP Lender in its sole discretion, and (b) 100% of the cash proceeds from sales, recoveries or other dispositions (including casualty events) of any Collateral (as defined below).

Optional Prepayments:

Upon notice of at least one (1) business day, the Borrower may prepay the DIP Loan and DIP Loan Obligations in full or in part.

**Security and
Priority:**

The DIP Obligations together with the DIP Loan shall, subject to the Carve-Out (as defined below), at all times pursuant to sections 364(c)(1) and 364(c)(2) of the Bankruptcy Code, be secured by a perfected, superpriority security interest and lien on the Collateral. The Collateral shall exclude any avoidance actions pursuant to chapter 5 of the Bankruptcy Code or applicable state law equivalents (in each case, or the proceeds thereof), (collectively, “**Avoidance Actions**”) any commercial tort claims (or the proceeds thereof) (“**Commercial Tort Claims**”), and any claims against Kenneth Mattson, Stacy Mattson, Tim Lefever, or KS Mattson Company, LLC (the “**D&O Claims**”).

Collateral means the real property assets of the Borrower as further described on Exhibit A (Collateral Schedule), and the note in the amount of \$19 million held by Borrower and secured by a junior lien on the property located at 1716 Ocean Front, Del Mar, CA 92014 (the “Additional Collateral”). DIP Lender shall receive a first priority lien on all unencumbered real property on the Collateral Schedule and a second, third, or fourth priority lien on all other real property on the Collateral Schedule that is already subject to secured claims, in each case subject only to the Carve-Out and permitted first, second, or third priority liens on the encumbered Collateral. DIP Lender shall also receive a superpriority administrative expense claim against the Borrower. The Collateral shall explicitly exclude Avoidance Actions, Commercial Tort Claims, and D&O Claims, and DIP Lender shall waive the right to proceeds of the Avoidance Actions, the Commercial Tort Claims or the D&O Claims whether for its superpriority administrative claim or otherwise.

Carve-Out:

The “**Carve-Out**” is an amount equal to the sum of (i) all fees required to be paid to the clerk of the Bankruptcy Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) fees and expenses of up to \$25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (which is included in the notice set forth in (iii) below); and (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “**Allowed Professional Fees**”) incurred by persons or firms (“**Professional Persons**”) retained by the Debtor after the Relief Date (hereinafter, “**Debtor**”) or the official committee of unsecured creditors, appointed in the Bankruptcy Case (the “**Creditors’ Committee**”), if any, in each case whose retention is approved by the Bankruptcy Court pursuant to sections 327, 328 or 363 and 1103 of the Bankruptcy Code, at any time before or on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice, and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$250,000 incurred after the first business day following delivery by the DIP Lender of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “**Post-Carve Out Trigger Notice Cap**”); *provided*, that (x) (1) the failure of the Carve-Out Account (defined below) to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve-Out (or the obligations benefiting therefrom) as provided herein or in the Interim Order or Final Order (as applicable) and (2) in no way shall the Approved Budget, Carve-Out, Post Carve-Out Trigger Notice Cap, or any of the foregoing be construed as a cap or limitation on the

amount of the Allowed Professional Fees due and payable by the Debtor and (y) nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in clauses (i), (ii), (iii) or (iv) above, on any grounds. The Carve-Out shall be funded to an administrative reserve account (the “**Carve-Out Account**”) in an amount equal to the unpaid Allowed Professional Fees plus the Post-Carve Out Trigger Notice Cap, which account shall be used to pay Professional Fees and any unpaid fees to the United States Trustee. As cash flow permits, and assuming no issuance of a Carve-Out Trigger Notice, the Debtor shall pay the amounts for Allowed Professional Fees into the Carve-Out Account. Any shortfall in the Carve-Out Account shall be funded first from the DIP Facility in an amount that shall not cause the DIP Loan to exceed the Maximum DIP Facility Amount (delivery of the Carve Out Trigger Notice shall be deemed a request by the Debtor for DIP Loan under the DIP Facility in an amount equal to the Post-Carve Out Trigger Notice Cap) and second from the net proceeds of the Collateral resulting from a sale of the Collateral outside the ordinary course of business (which constitutes an event triggering mandatory prepayment of the DIP Loan).

Notwithstanding the foregoing, the Carve-Out shall not include, apply to or be available for any fees or expenses incurred by any party in connection with (a) the investigation, initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lender or its officers, directors and professionals; (b) attempts to adversely modify any of the rights granted to the DIP Lender; (c) attempts to prevent, hinder or otherwise delay the DIP Lender’s assertion, enforcement or realization upon any Collateral in accordance with the DIP and DIP Loan Financing Documents; (d) paying any amount on account of any claims arising before the commencement of the Bankruptcy Case unless such payments are approved by an order of the Bankruptcy Court; or (e) after delivery of a Carve-Out Trigger Notice, any success, completion, back-end or similar fees.

Notwithstanding anything to the contrary herein, the Carve-Out shall be senior to all liens and claims securing the DIP Facility and DIP Loan, any adequate protection liens, if any, the superpriority claims and any and all other liens or claims existing pursuant to the DIP Facility and DIP Loan.

For purposes of the foregoing, “**Carve Out Trigger Notice**” shall mean a written notice delivered by email (or other electronic means) by the DIP Lender to the Debtor’s lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, if any, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Loans under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

Purpose/Use of Proceeds:

Amounts that may be made available under the DIP Facility shall be used by the Borrower to fund costs of the Borrower of administering the Bankruptcy Case, for the general working capital of the Borrower, to fund the Carve-Out Account, and to cover the DIP Lender’s costs and expenses in connection with the DIP Loan as more fully set forth herein and in the DIP Financing Orders and as further ordered by the Bankruptcy Court. These costs shall either be included within the **\$4,000,000** facility amount or, at the Borrower’s election, added on top of the facility amount. All amounts shall only be funded by the DIP Lender and allocated

and spent by the Borrower in accordance with the Approved Budget; and to pay the fees and expenses incurred by the Borrower pursuant to the DIP Facility and the DIP Financing Documents.

**Approved Budget
and Reporting
Compliance:**

A budget with expense and cash flow projections for the Borrower for the 13-week period beginning July 27, 2025, to be updated every four (4) weeks on a rolling basis, with an aggregate reconciliation of actual results to projections, and with narrative explanations prepared by the Borrower of any material variances, to be certified by a responsible officer of the Borrower and approved in form and substance by the DIP Lender (once so approved, and subject to any update as may be approved by the DIP Lender, the **“Approved Budget”**). The Borrower shall be required to comply with such Approved Budget, subject to customary variances (including an aggregate variance testing threshold of 120%), in all material respects for purposes of the DIP Facility and the DIP Loan in accordance with the DIP Financing Orders.

**Conditions
Precedent to the DIP
Closing Date and the
DIP Closing Date:**

The obligations of the DIP Lender (i) to make the DIP Loan upon the closing thereof (the date of such closing, the “**DIP Closing Date**”) and (ii) to make the other DIP Loans after entry of the Final Order and the closing thereof (the date of such closing, the “**DIP Closing Date**”) shall be subject to the satisfaction (or waiver) of customary conditions precedent, including:

- (i) With respect to the DIP Closing Date, the Interim Order, in form and substance satisfactory to the DIP Lender, shall have been entered on or before August 6, 2025, shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed. With respect to any other DIP Closing Date, (a) the Final Order, in form and substance satisfactory to the DIP Lender, shall have been entered by the Bankruptcy Court on or before September 18, 2025, shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed and (b) the DIP Lender has been provided with documentary evidence acceptable to the DIP Lender in its sole discretion confirming the Collateral lien priorities set forth on the Collateral Schedule and the outstanding loan balances related thereto that were disclosed by the Borrower.
- (ii) No trustee shall have been appointed with respect to the Bankruptcy Case.
- (iii) Immediately prior to, and after giving effect to, the making of the DIP Loans, there shall exist no default under the DIP Financing Documents.
- (iv) The Termination Date shall not have occurred.
- (v) The representations, warranties and covenants of the Borrower in the DIP Financing Documents and herein shall be true and correct in all material respects (or in the case of representations and warranties with a “materiality” qualifier, true and correct in all material respects) immediately prior to, and after giving effect to, the funding or issuance of the DIP Loans.
- (vi) The making of the DIP Loans shall not violate any requirement of law and shall not be enjoined, temporarily, preliminarily or permanently.
- (vii) The making of the DIP Loans shall not result in the aggregate outstanding obligations under the DIP Facility exceeding the amount authorized by orders entered by the Bankruptcy Court or the Final Order, as applicable.
- (viii) The Borrower shall have paid all fees and expenses payable pursuant to the DIP Financing Documents and incurred as of the DIP Closing Date or the DIP Closing Date, as applicable.
- (ix) All outstanding real property taxes that are due or owing for the Properties at the time of a draw have been paid or will be immediately paid with the draw proceeds.

**Representations and
Warranties:**

The Borrower makes the representations, warranties and covenants set forth on **Exhibits B and C** hereto.

**Affirmative
Covenants:**

The Borrower makes the affirmative covenants set forth on **Exhibit C**.

Negative Covenants: The Borrower makes the negative covenants set forth on **Exhibit C**.
Events of Default: The events of default (each, an “**Event of Default**”) shall include, but not be limited to, the following events having occurred without the DIP Lender’s consent: (i) failure to pay principal, interest, or any other amounts due and payable by the Borrower when due, including at the Termination Date, or as set forth in the DIP Financing Documents; (ii) breaches of agreements, representations, warranties and covenants set forth herein and in the DIP Financing Documents; (iii) reversals, stays or unauthorized (by DIP Lender) modifications of the Interim Order or the Final Order, (iv) the entry of an order in the Bankruptcy Case seeking authority to obtain financing under section 364 of the Bankruptcy Code for which Borrower is or may become liable (other than the DIP Facility), unless such financing would repay in full in cash DIP Obligations upon consummation thereof; (v) conversion or dismissal of the Bankruptcy Case, appointment of a trustee, or filing of a plan of reorganization or plan of liquidation that does not repay the DIP Obligations in full and in cash on the effective date of the plan; (vi) the Interim Order shall not have been entered on or before August 6, 2025; (vii) the entry of the Final Order shall not have been entered on or before September 18, 2025; (viii) an “Event of Default” under the Final Order; and (ix) entry of an order of the Bankruptcy Court granting, other than in respect of the DIP Facility and the Carve-Out, any claim of any other lender entitled to superpriority administrative expense claim status in the Bankruptcy Case pursuant to section 364(c)(1) of the Bankruptcy Code or senior secured status pursuant to section 364(d) of the Bankruptcy Code senior to or *pari passu* with the claims of the DIP Lender under the DIP Facility and the DIP Loan.

Upon the occurrence of an Event of Default, (x) (i) the DIP Lender may declare the termination, reduction or restriction of any further commitment to the extent any such commitment remains, (ii) all obligations to be immediately due and payable, without presentment, demand, protest, or other notice of any kind, all of which are expressly waived by the Borrower, and (iii) the termination of the DIP Facility and the DIP Financing Documents as to any future liability or obligation of the DIP Lender, but without affecting any of the liens or the obligations under the DIP Facility and (y) upon the giving of five (5) business days’ notice to the Borrower, counsel to any Creditors’ Committee and the U.S. Trustee, (the “**Remedies Notice Period**”), exercise all other rights and remedies provided for in the DIP Financing Documents and applicable law. During the Remedies Notice Period, Lender shall not be required to make advances under the DIP Facility and any party in interest shall be entitled to seek an emergency hearing with the Bankruptcy Court to be held prior to the expiration of the Remedies Notice Period, for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing.

Waiver / Modification of the Automatic Stay: The DIP Financing Orders shall provide, and the Interim Order shall be deemed to provide, that the automatic stay otherwise applicable to the DIP Lender is modified to the extent necessary to (i) exercise its rights and remedies with respect to the Collateral (as applicable), subject to the Remedies Notice Period; and (ii) upon the occurrence and continuation of an Event of Default, (a) declare the DIP Loans and all other obligations under the DIP Facility to be due and payable; (b) refuse to extend any further DIP Loans under the DIP Facility, and/or (c) subject only to the Carve-Out, terminate the use of cash collateral securing payment of any obligations under the DIP Facility or the DIP Financing Documents.

Credit Bid: The DIP Lender (upon entry of the Interim Order) will have the unqualified right, in accordance with the terms of the DIP Financing Documents, to credit bid on its Collateral up to the full amount of the DIP Obligations (each such bid, a **“Credit Bid”**) pursuant to section 363(k) of the Bankruptcy Code, in any sale or transfer of Collateral authorized by the Bankruptcy Court pursuant to section 363, 725, or 1123 of the Bankruptcy Code.


Expenses and Indemnification: The Borrower shall pay or reimburse the DIP Lender for all reasonable and documented out-of-pocket costs and expenses incurred (including reasonable and documented fees and expenses of counsel and the financial advisor to the DIP Lender) in connection with (i) the preparation, negotiation and execution of the DIP Facility, the DIP Financing Documents, the Interim Order and the Final Order, and the hearing with respect thereto; (ii) the initial funding of the DIP Loans; (iii) the creation and perfection of the liens under the DIP Financing Documents (including all search, filing and recording fees); (iv) the on-going administration of the DIP Financing Documents (including the preparation, negotiation and execution of any amendments, consents, waivers, assignments, restatements or supplements thereto) and the monitoring of the Bankruptcy Case; (v) the enforcement of the DIP Financing Documents; (vi) any refinancing or restructuring of the DIP Facility in the nature of a “work-out” or otherwise; and (vii) any legal proceeding relating to or arising out of the DIP Facility or the other transactions contemplated by the DIP Financing Documents, including the Bankruptcy Case. Notwithstanding the foregoing, reimbursable costs and expenses for items (i) through (iii) shall not exceed \$145,000 in the aggregate.

The Borrower will indemnify and hold harmless the DIP Lender and its respective affiliates, officers, directors, employees, agents, advisors, attorneys and representatives from and against all losses, liabilities (including coverage of environmental liabilities), claims, damages or other expenses arising out of or relating to the DIP Financing Documents and the Borrower’s use of the financing provided thereunder, except in cases of the DIP Lender’s fraud, willful misconduct, or gross negligence. The indemnification will survive and continue for the benefit of all such persons or entities.

Governing Law: Federal bankruptcy law and the laws of the State of California.

[Signature Page Follows]

SERENE INVESTMENT MANAGEMENT LLC



Adam Phillips
Manager of Serene Investments
Management LLC

KS MATTSON PARTNERS, LP

By: _____

Signature: _____

Title: _____

Date: _____

SERENE INVESTMENT MANAGEMENT LLC

By: _____
Signature: _____
Title: _____
Date: _____

Accepted and Approved:

KS MATTSON PARTNERS, LP

By: ROBBIN L. ITRKOV
Signature: [Signature]
Title: Responsible Individual
Date: 7/29/2025

Exhibit A - Collateral Schedule

Upon entry of the Interim Order, the DIP Lender shall receive a first priority perfected lien on the unencumbered properties listed in Section A-1 and a second priority perfected lien on the encumbered properties listed in Section A-2, subject only to the Carve-Out and first, second, or third priority liens on the A-2 properties set forth below.

A-1. Unencumbered Properties (First Priority Liens)

#	<i>Property Address</i>
1	2500 Castle Rd, Sonoma, CA 95476
2	3200 Castle Rd, Sonoma, CA 95476
3	443 Casabonne Lane, Sonoma, CA 95476
4	62 Farragut Ave. B, Piedmont, CA 94610
5	904 Highway 121, Sonoma, CA 95476
6	23105 Millerick Rd, Sonoma, CA 95476

A-2. Encumbered Properties (Second, Third, or Fourth Priority Liens)

#	<i>Property Address</i>
1	454 15 th St, Del Mar, CA 92014
2	405 London Way, Sonoma, CA 95476
3	415 Pacific Ave, Piedmont, CA 94611
4	3003 Castle Rd, Sonoma, CA 95476
5	1014 1 st St W, Sonoma, CA 95476
6	22 Boyes Blvd, Boyes Hot Springs, CA 95476
7	856 4 th St E, Sonoma, CA 95476
8	969 Rachael Rd, Sonoma, CA 95476
9	1834-1836 Ocean Front, Del Mar, CA 92014
10	531-533 Camino Del Mar, CA 92014

A-3. Additional Collateral

1 The note in the amount of \$19 million held by Borrower and secured by a junior lien on the property located at 1716 Ocean Front, Del Mar, CA 92014.

Exhibit B
Representations and Warranties

To induce the DIP Lender to enter into the term sheet and to make advances under the DIP Facility, the Debtor/Borrower represents, warrants and covenants to the DIP Lender that the following statements are true, correct and complete as of the date hereof. References to the knowledge or awareness of Debtor are deemed to include the actual knowledge of any officer or director of the Debtor after reasonable inquiry.

Disclosure. To the best of the Debtor's knowledge, no representation or warranty of the Debtor contained in this term sheet or any other document, certificate or written statement furnished to the DIP Lender by or on behalf of any such Person for use in connection with the DIP Facility contains any untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made.

No Conflict; Compliance. The consummation of the transactions contemplated by this term sheet does not and will not violate or conflict with any laws, rules, regulations or orders of any Governmental Authority or violate, conflict with, result in a breach of, or constitute a default (with due notice or lapse of time or both) under any contractual obligation or organizational documents of Debtor. To the best of the Debtor's knowledge, Debtor is in compliance with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority and the obligations, conditions and covenants contained in all contractual obligations other than those laws, rules, regulations, orders and provisions of such contractual obligations the noncompliance with which could not be reasonably expected to have, either individually or in the aggregate, a material adverse effect.

Organization and Powers. Debtor is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and qualified to do business in all states where such qualification is required except where failure to be so qualified could not reasonably be expected to have a material adverse effect. Debtor has all requisite organizational power and authority to own and operate its properties, to carry on its business as now conducted and proposed to be conducted, and, subject to approval by the Bankruptcy Court, to enter into this term sheet and to incur the obligations under the DIP Facility, grant liens and security interests in the Collateral and carry out the transactions contemplated by this term sheet and the other DIP Financing Documents.

Binding Obligation. Subject to approval by the Bankruptcy Court, this term sheet is, and the other DIP Facility Documents when entered or executed and delivered will be, the legally valid and binding obligations of the applicable parties thereto, each enforceable against each of such parties, as applicable, in accordance with their respective terms.

Bankruptcy Case. Proper notice of the hearing for the approval of the Interim Order and Final Order will be given to all parties entitled to notice. Debtor will make best efforts to ensure that all information, reports and other papers and data with respect to the Debtor (other than projections), if any, furnished to the DIP Lender were, at the time furnished, complete and correct in all material respects, or have been subsequently supplemented by other information, reports or

other papers or data, to the extent necessary to give the DIP Lender a true and accurate knowledge of the subject matter in all material respects other than as set forth in this agreement.

All insurance reasonably required to be obtained and maintained by the Debtor and its subsidiaries has been obtained and all premiums then and payable on all such insurance have been paid or will be paid immediately upon receipt by the Debtor of the DIP Financing proceeds.

Taxes. The Debtor has filed, caused to be filed, or intends to file all material tax returns required to be filed, and have paid, or have made adequate provision for the payment of, all taxes reflected therein and all real property taxes for the Properties, except (1) for taxes that are being contested in good faith by appropriate proceedings and are reserved against (to the extent required by GAAP) by Debtor, (2) real property taxes that will be immediately paid with the proceeds of a draw or (3) to the extent that failure to pay such taxes (that are not real property taxes for the Property) could not reasonably be expected to have a material adverse effect.

Government Consents. The Debtor has obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all governmental authorities that are necessary for the continued operation of the Debtor's business as currently conducted, except where the failure to do so would not reasonably be expected to cause a material adverse effect.

Use of Proceeds. The Borrower shall use the proceeds of the Loans in accordance with the Approved Budget and the Interim Order and Final Order entered in connection with the Bankruptcy Case exclusively for one or more of the following purposes (subject to any additional restrictions on the use of such proceeds and any such cash collateral set forth in the Interim Order or the Final Order):

- (a) to pay any fees of professionals (including, without limitation, to fund the Carve-Out Account) and as otherwise provided in the DIP Financing Orders, and pay the DIP Lender its fees and expenses as and when due.;
- (b) to pay certain costs, premiums, fees and expenses related to the Bankruptcy Case in accordance with the Approved Budget; and
- (c) to fund working capital and other needs of the Debtor and its subsidiaries in accordance with the Approved Budget.

Exhibit C

Affirmative and Negative Covenants

AFFIRMATIVE COVENANTS

Debtor covenants and agrees that from and after the date hereof and until the Termination Date:

Compliance With Laws and Contractual Obligations. The Debtor will, in all material respects, (a) comply with (i) the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including, without limitation, laws, rules, regulations and orders relating to taxes, employer and employee contributions, securities, employee retirement and welfare benefits, environmental protection matters and employee health and safety) as now in effect and which may be imposed in the future in all jurisdictions in which the Debtor are now doing business or may hereafter be doing business and (ii) the obligations, covenants and conditions contained in all contractual obligations of the Debtor other than those laws, rules, regulations, orders and provisions of such contractual obligations the noncompliance with which could not be reasonably expected to have, either individually or in the aggregate, a material adverse effect, and (iii) its obligations and responsibilities as a debtor-in-possession under the Bankruptcy Code, the rules of procedure of the Bankruptcy Court, and any order of the Bankruptcy Court, and (b) maintain or obtain all licenses, qualifications and permits now held or hereafter required to be held by the Debtor, for which the loss, suspension, revocation or failure to obtain or renew, could reasonably be expected to have, either individually or in the aggregate, a material adverse effect.

Maintenance of Properties; Insurance. The Debtor will maintain or cause to be maintained in good repair, working order and condition the properties constituting the Collateral (the “**Properties**” and each a “**Property**”) and all material properties used in the business of the Debtor necessary to maintain the value of the Properties, and will make or cause to be made all appropriate repairs, renewals and replacements thereof, ordinary wear and tear excepted. The Debtor will maintain or cause to be maintained, with financially sound and reputable insurers, public liability and property damage insurance with respect to the Properties against loss or damage of the kinds customarily carried or maintained by corporations of established reputation engaged in similar businesses and in amounts reasonably acceptable to the DIP Lender and will deliver evidence thereof to the DIP Lender. In the event the Debtor fails to provide the DIP Lender with evidence of the insurance coverage required by this agreement, the DIP Lender may purchase insurance at the Debtor’s expense to protect the DIP Lender’s interests in the Collateral and the Properties. The Debtor may, and the DIP Lender shall at the written request of the Debtor, later cancel any insurance purchased by the DIP Lender, but only after providing the DIP Lender with evidence that the Debtor has obtained insurance as required by this term sheet. If the DIP Lender purchases insurance for the Properties, the Debtor will be responsible for the costs of that insurance, including interest and other charges imposed by the DIP Lender in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the DIP Obligations.

Taxes. Borrower shall make due and timely payment or deposit of all taxes required of it by law (including the Bankruptcy Code), provided that Borrower need not make any payment if (i) the amount or validity of such payment is contested in good faith by appropriate proceedings and is reserved against (to the extent required by GAAP (or such other accounting basis selected by Borrower, consistently applied and reasonably acceptable to Lender)) by Borrower and (ii) the failure to make payment pending such contest could not reasonably be expected to result in a material adverse effect.

Senior Loans. Borrower shall make due and timely payment of all obligations owing by Borrower on account of the Properties designated as “Encumbered Properties” on the Collateral Schedule.

Inspection; Lender Meeting. The Debtor shall permit any authorized representatives of the DIP Lender to visit, audit and inspect the Properties and materials relating thereto, including the Debtor’s financial and accounting records, and to make copies and take extracts therefrom, and to discuss its and their affairs, finances and business with its and their officers and certified public accountants, at such reasonable times during normal business hours and as often as may be reasonably requested. Representatives of the DIP Lender will be permitted to accompany representatives of the DIP Lender during each visit, inspection and discussion referred to in the immediately preceding sentence.

Organizational Existence. The Debtor will at all times preserve and keep in full force and effect its organizational existence and all rights and franchises material to its respective business.

Bankruptcy Matters. The Debtor shall timely comply with all obligations of a debtor-in-possession under Chapter 11 of the Bankruptcy Code, including, but not limited to, its obligation to file monthly operating reports; provided, however, that such operating reports will be deemed timely filed if filed within 30 days of the respective due date.

Upon request, the Debtor shall provide to the DIP Lender all reports, if any, provided to the Debtor’s prepetition lenders that relate in any way to the Collateral or the Properties.

The Debtor shall properly exercise any trust responsibilities imposed on it by reason of withholding from employees’ pay, and timely file all tax and other returns and other reports with each governmental authority to whom any of the Debtor is obligated to so file.

The Debtor will comply with and use its assets in compliance with applicable law.

The Debtor shall keep the Properties in good order and repair (ordinary wear and tear and insured casualty excepted).

Further Assurances. At any time and from time to time the Debtor shall execute and deliver such further instruments and take such further action as may reasonably be requested by DIP Lender to effect the purposes of this Agreement.

NEGATIVE COVENANTS

Debtor covenants and agrees that from and after the date hereof until the Termination Date:

Liens and Mortgages. Debtor shall not directly or indirectly create, incur, assume or permit to exist any liens or mortgages on or with respect to the Properties or the Collateral, whether now owned or hereafter acquired, or any income or profits therefrom, except for liens and mortgages in favor of the DIP Lender and holders of mortgages on the Relief Date (solely to the extent such liens were valid and non-avoidable as of the Relief Date and properly perfected prior to the Relief Date or perfected subsequent to the Relief Date as permitted by section 546(b) of the Bankruptcy Code).

Investments. Debtor shall not directly or indirectly make or own any investments except as permitted by the Bankruptcy Court.

Disposal of Assets or Subsidiary Stock. Debtor shall not directly or indirectly convey, sell, lease, sublease, transfer or otherwise dispose of, or grant any Person an option to acquire, in one transaction or a series of related transactions, any of its property, business or assets, whether now owned or hereafter acquired, except as set forth in an order of the Bankruptcy Court approving such disposition.

Bank Accounts. Other than the Carve-Out Account and any debtor-in-possession bank accounts established by the Debtor after the Relief Date and prior to the date of this term sheet, Debtor shall not establish any new bank accounts, without prior written notice to DIP Lender and unless the DIP Lender and the bank at which the account is to be opened enter into a control agreement pursuant to which such bank (a) acknowledges the security interest of the DIP Lender in such bank account, (b) agrees to comply with instructions originated by Lender directing disposition of the funds in the bank account without further consent from Debtor, and (c) agrees to subordinate and limit any security interest the bank may have in the bank account on terms reasonably satisfactory to DIP Lender.

Debtor shall not use the proceeds of the DIP Facility other than in accordance with this agreement, the Approved Budget and the DIP Financing Orders.

From the date hereof and for so long as the any obligation is owing to the DIP Lender hereunder, Debtor agrees that it shall not, and shall not seek authority to (unless in connection with an amendment to this agreement that is reasonably likely to be approved by the DIP Lender or that proposed to repay the DIP Lender in full), incur, create, assume, suffer to exist or permit any superpriority claim or lien on the Collateral, other than (i) the liens and superpriority claim in favor of the DIP Lender and (ii) liens that have a priority senior or *pari passu* to the DIP Lender (the “Permitted Prior Liens”).

From the date hereof and for so long as any obligation is owing to the DIP Lender hereunder and the DIP Financing Documents, Debtor agrees that it shall not, and shall not seek authority to (unless in connection with an amendment to the agreement that is reasonably likely to

be approved by the DIP Lender), convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including, without limitation, any capital stock of Debtor, receivables and fee or leasehold interests) outside of the ordinary course of Debtor's business operations in to any Person prior to obtaining an appropriate order of the Bankruptcy Court with such application for such order to be provided on notice to DIP Lender.

Change in Business; Change in Executive Office. Debtor shall not engage in any business, or permit any of its subsidiaries to engage in any business, other than the businesses currently engaged in by Debtor (or the current business of such subsidiaries) and any business substantially similar or related thereto (or incidental thereto), or cease to conduct business in the manner conducted by Debtor as of the Relief Date; or without thirty (30) calendar days prior written notification to DIP Lender: (a) relocate its chief executive office outside the state of incorporation or change its legal name; (b) add any new offices or business locations or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars (\$100,000) to a bailee; or (c) without DIP Lender's prior written consent, change the date on which its fiscal year ends.

Mergers or Acquisitions. Debtor shall not, without prior written notification to DIP Lender and approval of the Bankruptcy Court, merge, divide (pursuant to Delaware limited liability company law or any similar statute) or consolidate, or permit any of its subsidiaries to merge, divide or consolidate, with or into any other business organization, or acquire, or permit any of its subsidiaries to acquire, all or substantially all of the capital stock or property of another Person.

Indebtedness. Debtor shall not, without the DIP Lender's consent, create, incur, guarantee, assume or be or remain liable with respect to any DIP Obligations, or permit any subsidiary so to do other than as contemplated by this agreement and the DIP Financing Orders.

Encumbrances. Debtor shall not create, incur, assume or suffer to exist any lien with respect to any of its property that is Collateral, or permit any of its subsidiaries so to do other than as in existence on the Relief Date, or enter into any agreement with any Person other than DIP Lender to grant a security interest in, or otherwise encumber, the Collateral or the Property, except as set forth in the Interim Order or Final Order.

Distributions. Debtor shall not pay any dividends or make any other distribution or payment on account of or in redemption, retirement or purchase of any equity interests.

Transactions with Affiliates. Debtor shall not directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Debtor except for transactions that are in the ordinary course of Debtor's business, upon fair and reasonable terms that are no less favorable to Debtor than would be obtained in an arm's length transaction with a non-affiliated Person.

EXHIBIT 2

Budget

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		7/13/2025	7/20/2025	7/27/2025	8/3/2025	8/10/2025	8/17/2025	8/24/2025	8/31/2025	9/7/2025	9/14/2025	9/21/2025	9/28/2025	10/5/2025	10/12/2025		
Item	Wk. Beg	Week -1	Current Week	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Total
Receipts																	
Property Monetization																	
Financing Proceeds/ Repayments					1,000,000				1,500,000								2,500,000
Sales Proceeds	N1, N6												2,277,260	2,277,260	1,138,630		5,693,150
Rents and other Property Income			60,088	45,586		55,319	15,805	7,903			55,319	15,805	7,903		55,319	15,805	334,853
Other		-	30	-	-	-	-	-	-	-	-	-	-	-	-	-	30
Total Receipts		\$ -	\$ 60,119	\$ 45,586	\$ 1,000,000	\$ 55,319	\$ 15,805	\$ 7,903	\$ -	\$ 1,500,000	\$ 55,319	\$ 15,805	\$ 7,903	\$ 2,277,260	\$ 2,332,579	\$ 1,154,435	\$ 8,528,033
Disbursements																	
Operations																	
Property Management, Leasing												(24,225)				(24,225)	(48,450)
Utilities						(45,546)					(45,546)			(45,546)			(136,639)
Ongoing Property Maintenance						(30,333)					(30,333)			(30,333)			(91,000)
Security						(8,000)					(8,000)			(8,000)			(24,000)
Property Insurance					(139,114)	(10,000)					(10,000)			(10,000)			(169,114)
Property Taxes	N2											-					-
Initial/ Remedial Maintenance and Cleanup					(10,000)	(200,000)											(210,000)
Total Operations		-	-	-	(149,114)	(293,880)	-	-	-	-	(93,880)	(24,225)	-	-	(93,880)	(24,225)	(679,203)
Net Operating Cash Flow		-	60,119	45,586	850,886	(238,560)	15,805	7,903	-	1,500,000	(38,560)	(8,420)	7,903	2,277,260	2,238,699	1,130,210	7,848,831
Property Transition Payments																	
Property Takeover Costs																	
Locks/Keys					(7,500)												(7,500)
Immediate Deferred Maintenance					(2,500)	(5,000)	(2,500)										(10,000)
Other					(5,000)	(2,500)											(7,500)
Other Aging Post Relief Date Payments					(27,028)												(27,028)
Total Property Transition Payments		-	-	-	(42,028)	(7,500)	(2,500)	-	-	-	-	-	-	-	-	-	(52,028)
Other Disbursements																	
Repay Financing	N3													(2,500,000)			(2,500,000)
Loan Fees and Closing Costs					(170,000)												(170,000)
Interest	N4														-	(200,000)	(200,000)
Fiduciary Payments								(62,500)				(25,000)				(25,000)	(112,500)
Professional Fees											(998,396)			(676,976)		(1,023,529)	(2,698,900)
Veritas- Claims Administration											(41,667)				(41,667)		(83,333)
PW/C- Sub-Con Analysis	N7																
Travel					(10,000)	(10,000)	(5,000)	-	(5,000)	-			(5,000)				(35,000)
Trustee Fee									(250)								(250)
Contingency Reserve	N5			(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(260,000)
Total Other Disbursements		-	-	(20,000)	(200,000)	(30,000)	(25,000)	(82,500)	(25,250)	(20,000)	(1,060,062)	(45,000)	(25,000)	(3,196,976)	(61,667)	(1,268,529)	(6,059,983)
Net Cash Flow - Non Operating		-	-	(20,000)	(242,028)	(37,500)	(27,500)	(82,500)	(25,250)	(20,000)	(1,060,062)	(45,000)	(25,000)	(3,196,976)	(61,667)	(1,268,529)	(6,112,011)
Beginning Cash		\$ 37,193	\$ 37,193	\$ 97,312	\$ 122,898	\$ 731,756	\$ 455,695	\$ 444,001	\$ 369,403	\$ 344,153	\$ 1,824,153	\$ 725,531	\$ 672,111	\$ 655,014	\$ (264,702)	\$ 1,912,331	\$ 37,193
Ending Cash		\$ 37,193	\$ 97,312	\$ 122,898	\$ 731,756	\$ 455,695	\$ 444,001	\$ 369,403	\$ 344,153	\$ 1,824,153	\$ 725,531	\$ 672,111	\$ 655,014	\$ (264,702)	\$ 1,912,331	\$ 1,774,012	\$ 1,774,012

N1: See Property Sales tab.
N2: Taxes to be paid upon asset sale generally. No tax payments expected prior to Dec 2025, so taxes are excluded from the current CF projection period
N3: Assumed no property level debt service, with debt and accrued interest repaid at sale.
N4: Interest at 16%, 3-month minimum
N5: Assume properties are behind with vendors, in need of deferred maintenance, etc. Only expenditures critical to preserving asset values will be incurred.
N6: First sale at 75 days (assuming assets representing approx 10% of value are sold). Total estimated net real estate equity value is estimated at over \$30 million, net of secured debt. Estimating liquidating about 5% of the portfolio every week thereafter.
N7: Under discussion with LFM committee.

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EXHIBIT B

(Term Sheet)



DIP TERM SHEET

July 29, 2025

This Term Sheet sets forth the proposed terms and conditions for debtor-in-possession financing facility (the **"DIP Facility"**) to be provided by Serene Investment Management, LLC, or an affiliate (the **"DIP Lender"**), to KS Mattson Partners, LP (the **"Debtor"**), subject to approval of the United States Bankruptcy Court for the Northern District of California, Santa Rosa Division (the **"Bankruptcy Court"**) presiding in the case captioned *In re: KS Mattson Partners, LP*, Case No. 24-10715, pending before the Bankruptcy Court.

This Term Sheet is non-binding and constitutes an expression of interest only; it shall become binding solely upon entry of an interim order of the Bankruptcy Court authorizing the DIP Facility (the **"Interim Order"**) pursuant to, inter alia, Bankruptcy Code sections 363 and 364.

The DIP Lender is prepared to fund the DIP Facility upon entry of the Interim Order and has extensive experience in providing debtor-in-possession financing, including in the pending jointly administered chapter 11 cases of *In re LeFever Mattson*, Case No. 24-10545 (the **"Bankruptcy Proceeding"**) and the affiliated matters pending before the Bankruptcy Court. Examples of prior DIP transactions may be reviewed at www.sereneim.com.

KS Mattson Partners, LP
\$4 Million Superpriority Senior Secured
Debtor-in-Possession Term Loan Facility with Delayed Draw Features

Borrower: KS Mattson Partners, LP, a California limited partnership (the **"Borrower"** or **"Debtor"**), as a debtor in proceedings (the **"Bankruptcy Case"**) under title 11 of the United States Code (the **"Bankruptcy Code"**) in the United States Bankruptcy Court for the Northern District of California – Santa Rosa Division (the **"Bankruptcy Court"**). The date of filing of the involuntary petition against the Debtor (November 22, 2024) shall be referred to herein as the **"Petition Date"** and the date of entry of the order for relief on the involuntary petition (June 9, 2025) shall be referred to herein as the **"Relief Date."**

DIP Lender: Serene Investment Management, LLC or an affiliate (the **"DIP Lender"**).

Facilities: A superpriority senior secured term loan facility (the **"DIP Facility,"** and the term loans to be made thereunder, the **"DIP Loans"**) in the maximum aggregate amount on the DIP Closing Date (as defined below) of **\$4,000,000** (the **"Maximum DIP Facility Amount"**), structured as a delayed draw facility. The Maximum DIP Facility Amount shall be calculated without reference to interest, fees, and expenses that constitute DIP Obligations (as defined below). Borrower may request draws in minimum increments as agreed upon with the DIP Lender.

Funding of the DIP Loans will be available in drawings on each of the Interim DIP Closing Date (as defined below), the DIP Closing Date (as defined below), and thereafter as set forth below.

Availability:

Upon entry of the Interim Order (as defined below), DIP Loans consisting of not more than \$1 million principal amount of the DIP Facility (the “**Interim DIP Loans**”) will be requested by the Borrower and funded by the DIP Lender on the Interim DIP Closing Date. The Interim DIP Loans shall be funded based on the terms set forth in this Term Sheet and the Approved Budget and shall not be subject to reversal or modification by the Bankruptcy Court, ensuring the estate retains the amounts advanced.

Upon entry of the Final Order (as defined below), DIP Loans (such Loans, the “**Final DIP Loans**”) will be requested by the Borrower and funded by the DIP Lender on the DIP Closing Date and thereafter to be used in accordance with the Approved Budget cash requirements for the subsequent periods (the “**Delayed DIP Draws**”). The total funding to the Debtor, inclusive of the Delayed DIP Draws, will not exceed the Maximum DIP Facility Amount. The DIP Loans will be secured by liens on (a) the real property assets of the Debtor and (b) a note held by the Debtor, and have the lien priority as set forth in **Exhibit A** (the “**Collateral Schedule**”).

DIP Financing Orders:

The Bankruptcy Court shall enter an interim order (the “**Interim Order**”) on or before August 6, 2025, and a final order on or before September 18, 2025 (the “**Final Order**,” and together with the Interim Order and amendments thereto prior to entry of the Final Order, the “**DIP Financing Orders**”), each in form and substance satisfactory to the DIP Lender in its sole and absolute discretion. The Interim Order shall, among other things, (i) approve this Term Sheet; (ii) authorize and approve the funding of the Interim DIP Loans; (iii) approve the Approved Budget; (iv) grant the superpriority claims and liens and other liens described in the section “**Security and Priority**” below, and (v) include such waivers, indemnities, and other provisions as are acceptable to the DIP Lender in its reasonable discretion, including a finding under Bankruptcy Code Section 364(e). The Final Order to be entered on or before the date that is 35 days after entry of the Interim Order, as part of a DIP Facility shall, among other things, (i) approve a loan and security agreement on the terms and conditions set forth herein and the DIP Financing Orders (collectively with other definitive documentation and agreements among the parties, the “**DIP Financing Documents**”); (ii) authorize and approve the funding of the DIP and Final DIP Loans after the Relief Date; (iii) approve the Approved Budget; (iv) grant the superpriority claims and liens and other liens described in the section “**Security and Priority**” below, and (v) include such waivers, indemnities, and other provisions as are acceptable to the DIP Lender in its reasonable discretion, including findings under Bankruptcy Code Sections 364(e), 506(c) and 552. The DIP Financing Orders shall not be vacated, reversed, modified, amended or stayed in any material respect without the prior written consent of the DIP Lender.

Maturity:

The DIP Loans shall mature upon the “**Termination Date**,” which shall be the earliest of:

(a) December 31, 2025;

(b) August 6, 2025, if the Final Order has not been entered by the Bankruptcy Court by September 18, 2025;

(c) the consummation of a sale of all of the DIP Lender's Collateral pursuant to an order or orders entered by the Bankruptcy Court, which must provide for payment in full of the DIP Facility Amount to the extent not paid previously;

(d) the substantial consummation of a plan of reorganization or a plan of liquidation for the Borrower that is confirmed pursuant to an order entered by the Bankruptcy Court, which must provide for payment in full of the DIP Facility Amount to the extent not paid previously; and

(e) the acceleration of the DIP Loans and the termination of the commitment with respect to the DIP Loans in accordance with the DIP Financing Documents.

Upon the Termination Date, all obligations under the DIP Facility and the DIP Financing Documents, including principal, interest, fees not previously paid, including attorneys' fees, and expenses (if any) (collectively, the "**DIP Obligations**") shall be due and payable.

Interest: The DIP Loans shall bear interest at **16% per annum**, payable in kind. All accrued interest shall be capitalized to the outstanding principal balance and shall be due and payable at maturity or upon early repayment. Notwithstanding the foregoing, Borrower shall pay a minimum of six (6) months' accrued interest on the DIP Loans, regardless of early repayment.

Default Rate 4% (above the base rate).

Fees: Borrower shall be responsible for all fees, costs, and expenses of the DIP Lender, including any and all expenses of the DIP Lender's counsel, professional advisors, including financial and real estate advisors, and in-house administration and shall reimburse such reasonable amounts within 10 days of being provided invoices therefor or in the manner set forth in the DIP Financing Orders, as further set forth below in (and subject to the limitations set forth in) the ***Expense and Indemnification*** section of this Term Sheet. In addition, the Borrower shall pay a one-time, non-refundable facility fee of \$120,000, which shall be payable in kind (**PIK**) and added to the principal balance on the DIP Closing Date.

Mandatory Prepayments: Mandatory prepayment of the DIP Loan and DIP Loan and any applicable outstanding fees and expenses, shall be required with (a) 100% of the cash proceeds received for the incurrence of indebtedness outside the ordinary course of business by the Borrower and not permitted by the express written consent of the DIP Lender in its sole discretion, and (b) 100% of the cash proceeds from sales, recoveries or other dispositions (including casualty events) of any Collateral (as defined below).

Optional Prepayments: Upon notice of at least one (1) business day, the Borrower may prepay the DIP Loan and DIP Loan Obligations in full or in part.

**Security and
Priority:**

The DIP Obligations together with the DIP Loan shall, subject to the Carve-Out (as defined below), at all times pursuant to sections 364(c)(1) and 364(c)(2) of the Bankruptcy Code, be secured by a perfected, superpriority security interest and lien on the Collateral. The Collateral shall exclude any avoidance actions pursuant to chapter 5 of the Bankruptcy Code or applicable state law equivalents (in each case, or the proceeds thereof), (collectively, “**Avoidance Actions**”) any commercial tort claims (or the proceeds thereof) (“**Commercial Tort Claims**”), and any claims against Kenneth Mattson, Stacy Mattson, Tim Lefever, or KS Mattson Company, LLC (the “**D&O Claims**”).

Collateral means the real property assets of the Borrower as further described on Exhibit A (Collateral Schedule), and the note in the amount of \$19 million held by Borrower and secured by a junior lien on the property located at 1716 Ocean Front, Del Mar, CA 92014 (the “Additional Collateral”). DIP Lender shall receive a first priority lien on all unencumbered real property on the Collateral Schedule and a second, third, or fourth priority lien on all other real property on the Collateral Schedule that is already subject to secured claims, in each case subject only to the Carve-Out and permitted first, second, or third priority liens on the encumbered Collateral. DIP Lender shall also receive a superpriority administrative expense claim against the Borrower. The Collateral shall explicitly exclude Avoidance Actions, Commercial Tort Claims, and D&O Claims, and DIP Lender shall waive the right to proceeds of the Avoidance Actions, the Commercial Tort Claims or the D&O Claims whether for its superpriority administrative claim or otherwise.

Carve-Out:

The “**Carve-Out**” is an amount equal to the sum of (i) all fees required to be paid to the clerk of the Bankruptcy Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) fees and expenses of up to \$25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (which is included in the notice set forth in (iii) below); and (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “**Allowed Professional Fees**”) incurred by persons or firms (“**Professional Persons**”) retained by the Debtor after the Relief Date (hereinafter, “**Debtor**”) or the official committee of unsecured creditors, appointed in the Bankruptcy Case (the “**Creditors’ Committee**”), if any, in each case whose retention is approved by the Bankruptcy Court pursuant to sections 327, 328 or 363 and 1103 of the Bankruptcy Code, at any time before or on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice, and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$250,000 incurred after the first business day following delivery by the DIP Lender of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “**Post-Carve Out Trigger Notice Cap**”); *provided*, that (x) (1) the failure of the Carve-Out Account (defined below) to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve-Out (or the obligations benefiting therefrom) as provided herein or in the Interim Order or Final Order (as applicable) and (2) in no way shall the Approved Budget, Carve-Out, Post Carve-Out Trigger Notice Cap, or any of the foregoing be construed as a cap or limitation on the

amount of the Allowed Professional Fees due and payable by the Debtor and (y) nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in clauses (i), (ii), (iii) or (iv) above, on any grounds. The Carve-Out shall be funded to an administrative reserve account (the “**Carve-Out Account**”) in an amount equal to the unpaid Allowed Professional Fees plus the Post-Carve Out Trigger Notice Cap, which account shall be used to pay Professional Fees and any unpaid fees to the United States Trustee. As cash flow permits, and assuming no issuance of a Carve-Out Trigger Notice, the Debtor shall pay the amounts for Allowed Professional Fees into the Carve-Out Account. Any shortfall in the Carve-Out Account shall be funded first from the DIP Facility in an amount that shall not cause the DIP Loan to exceed the Maximum DIP Facility Amount (delivery of the Carve Out Trigger Notice shall be deemed a request by the Debtor for DIP Loan under the DIP Facility in an amount equal to the Post-Carve Out Trigger Notice Cap) and second from the net proceeds of the Collateral resulting from a sale of the Collateral outside the ordinary course of business (which constitutes an event triggering mandatory prepayment of the DIP Loan).

Notwithstanding the foregoing, the Carve-Out shall not include, apply to or be available for any fees or expenses incurred by any party in connection with (a) the investigation, initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lender or its officers, directors and professionals; (b) attempts to adversely modify any of the rights granted to the DIP Lender; (c) attempts to prevent, hinder or otherwise delay the DIP Lender’s assertion, enforcement or realization upon any Collateral in accordance with the DIP and DIP Loan Financing Documents; (d) paying any amount on account of any claims arising before the commencement of the Bankruptcy Case unless such payments are approved by an order of the Bankruptcy Court; or (e) after delivery of a Carve-Out Trigger Notice, any success, completion, back-end or similar fees.

Notwithstanding anything to the contrary herein, the Carve-Out shall be senior to all liens and claims securing the DIP Facility and DIP Loan, any adequate protection liens, if any, the superpriority claims and any and all other liens or claims existing pursuant to the DIP Facility and DIP Loan.

For purposes of the foregoing, “**Carve Out Trigger Notice**” shall mean a written notice delivered by email (or other electronic means) by the DIP Lender to the Debtor’s lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, if any, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Loans under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

Purpose/Use of Proceeds:

Amounts that may be made available under the DIP Facility shall be used by the Borrower to fund costs of the Borrower of administering the Bankruptcy Case, for the general working capital of the Borrower, to fund the Carve-Out Account, and to cover the DIP Lender’s costs and expenses in connection with the DIP Loan as more fully set forth herein and in the DIP Financing Orders and as further ordered by the Bankruptcy Court. These costs shall either be included within the **\$4,000,000** facility amount or, at the Borrower’s election, added on top of the facility amount. All amounts shall only be funded by the DIP Lender and allocated

and spent by the Borrower in accordance with the Approved Budget; and to pay the fees and expenses incurred by the Borrower pursuant to the DIP Facility and the DIP Financing Documents.

**Approved Budget
and Reporting
Compliance:**

A budget with expense and cash flow projections for the Borrower for the 13-week period beginning July 27, 2025, to be updated every four (4) weeks on a rolling basis, with an aggregate reconciliation of actual results to projections, and with narrative explanations prepared by the Borrower of any material variances, to be certified by a responsible officer of the Borrower and approved in form and substance by the DIP Lender (once so approved, and subject to any update as may be approved by the DIP Lender, the **“Approved Budget”**). The Borrower shall be required to comply with such Approved Budget, subject to customary variances (including an aggregate variance testing threshold of 120%), in all material respects for purposes of the DIP Facility and the DIP Loan in accordance with the DIP Financing Orders.

**Conditions
Precedent to the DIP
Closing Date and the
DIP Closing Date:**

The obligations of the DIP Lender (i) to make the DIP Loan upon the closing thereof (the date of such closing, the “**DIP Closing Date**”) and (ii) to make the other DIP Loans after entry of the Final Order and the closing thereof (the date of such closing, the “**DIP Closing Date**”) shall be subject to the satisfaction (or waiver) of customary conditions precedent, including:

- (i) With respect to the DIP Closing Date, the Interim Order, in form and substance satisfactory to the DIP Lender, shall have been entered on or before August 6, 2025, shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed. With respect to any other DIP Closing Date, (a) the Final Order, in form and substance satisfactory to the DIP Lender, shall have been entered by the Bankruptcy Court on or before September 18, 2025, shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed and (b) the DIP Lender has been provided with documentary evidence acceptable to the DIP Lender in its sole discretion confirming the Collateral lien priorities set forth on the Collateral Schedule and the outstanding loan balances related thereto that were disclosed by the Borrower.
- (ii) No trustee shall have been appointed with respect to the Bankruptcy Case.
- (iii) Immediately prior to, and after giving effect to, the making of the DIP Loans, there shall exist no default under the DIP Financing Documents.
- (iv) The Termination Date shall not have occurred.
- (v) The representations, warranties and covenants of the Borrower in the DIP Financing Documents and herein shall be true and correct in all material respects (or in the case of representations and warranties with a “materiality” qualifier, true and correct in all material respects) immediately prior to, and after giving effect to, the funding or issuance of the DIP Loans.
- (vi) The making of the DIP Loans shall not violate any requirement of law and shall not be enjoined, temporarily, preliminarily or permanently.
- (vii) The making of the DIP Loans shall not result in the aggregate outstanding obligations under the DIP Facility exceeding the amount authorized by orders entered by the Bankruptcy Court or the Final Order, as applicable.
- (viii) The Borrower shall have paid all fees and expenses payable pursuant to the DIP Financing Documents and incurred as of the DIP Closing Date or the DIP Closing Date, as applicable.
- (ix) All outstanding real property taxes that are due or owing for the Properties at the time of a draw have been paid or will be immediately paid with the draw proceeds.

**Representations and
Warranties:**

The Borrower makes the representations, warranties and covenants set forth on **Exhibits B and C** hereto.

**Affirmative
Covenants:**

The Borrower makes the affirmative covenants set forth on **Exhibit C**.

Negative Covenants: The Borrower makes the negative covenants set forth on **Exhibit C**.
Events of Default: The events of default (each, an “**Event of Default**”) shall include, but not be limited to, the following events having occurred without the DIP Lender’s consent: (i) failure to pay principal, interest, or any other amounts due and payable by the Borrower when due, including at the Termination Date, or as set forth in the DIP Financing Documents; (ii) breaches of agreements, representations, warranties and covenants set forth herein and in the DIP Financing Documents; (iii) reversals, stays or unauthorized (by DIP Lender) modifications of the Interim Order or the Final Order, (iv) the entry of an order in the Bankruptcy Case seeking authority to obtain financing under section 364 of the Bankruptcy Code for which Borrower is or may become liable (other than the DIP Facility), unless such financing would repay in full in cash DIP Obligations upon consummation thereof; (v) conversion or dismissal of the Bankruptcy Case, appointment of a trustee, or filing of a plan of reorganization or plan of liquidation that does not repay the DIP Obligations in full and in cash on the effective date of the plan; (vi) the Interim Order shall not have been entered on or before August 6, 2025; (vii) the entry of the Final Order shall not have been entered on or before September 18, 2025; (viii) an “Event of Default” under the Final Order; and (ix) entry of an order of the Bankruptcy Court granting, other than in respect of the DIP Facility and the Carve-Out, any claim of any other lender entitled to superpriority administrative expense claim status in the Bankruptcy Case pursuant to section 364(c)(1) of the Bankruptcy Code or senior secured status pursuant to section 364(d) of the Bankruptcy Code senior to or *pari passu* with the claims of the DIP Lender under the DIP Facility and the DIP Loan.

Upon the occurrence of an Event of Default, (x) (i) the DIP Lender may declare the termination, reduction or restriction of any further commitment to the extent any such commitment remains, (ii) all obligations to be immediately due and payable, without presentment, demand, protest, or other notice of any kind, all of which are expressly waived by the Borrower, and (iii) the termination of the DIP Facility and the DIP Financing Documents as to any future liability or obligation of the DIP Lender, but without affecting any of the liens or the obligations under the DIP Facility and (y) upon the giving of five (5) business days’ notice to the Borrower, counsel to any Creditors’ Committee and the U.S. Trustee, (the “**Remedies Notice Period**”), exercise all other rights and remedies provided for in the DIP Financing Documents and applicable law. During the Remedies Notice Period, Lender shall not be required to make advances under the DIP Facility and any party in interest shall be entitled to seek an emergency hearing with the Bankruptcy Court to be held prior to the expiration of the Remedies Notice Period, for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing.

Waiver / Modification of the Automatic Stay: The DIP Financing Orders shall provide, and the Interim Order shall be deemed to provide, that the automatic stay otherwise applicable to the DIP Lender is modified to the extent necessary to (i) exercise its rights and remedies with respect to the Collateral (as applicable), subject to the Remedies Notice Period; and (ii) upon the occurrence and continuation of an Event of Default, (a) declare the DIP Loans and all other obligations under the DIP Facility to be due and payable; (b) refuse to extend any further DIP Loans under the DIP Facility, and/or (c) subject only to the Carve-Out, terminate the use of cash collateral securing payment of any obligations under the DIP Facility or the DIP Financing Documents.

Credit Bid: The DIP Lender (upon entry of the Interim Order) will have the unqualified right, in accordance with the terms of the DIP Financing Documents, to credit bid on its Collateral up to the full amount of the DIP Obligations (each such bid, a “**Credit Bid**”) pursuant to section 363(k) of the Bankruptcy Code, in any sale or transfer of Collateral authorized by the Bankruptcy Court pursuant to section 363, 725, or 1123 of the Bankruptcy Code.


Expenses and Indemnification: The Borrower shall pay or reimburse the DIP Lender for all reasonable and documented out-of-pocket costs and expenses incurred (including reasonable and documented fees and expenses of counsel and the financial advisor to the DIP Lender) in connection with (i) the preparation, negotiation and execution of the DIP Facility, the DIP Financing Documents, the Interim Order and the Final Order, and the hearing with respect thereto; (ii) the initial funding of the DIP Loans; (iii) the creation and perfection of the liens under the DIP Financing Documents (including all search, filing and recording fees); (iv) the on-going administration of the DIP Financing Documents (including the preparation, negotiation and execution of any amendments, consents, waivers, assignments, restatements or supplements thereto) and the monitoring of the Bankruptcy Case; (v) the enforcement of the DIP Financing Documents; (vi) any refinancing or restructuring of the DIP Facility in the nature of a “work-out” or otherwise; and (vii) any legal proceeding relating to or arising out of the DIP Facility or the other transactions contemplated by the DIP Financing Documents, including the Bankruptcy Case. Notwithstanding the foregoing, reimbursable costs and expenses for items (i) through (iii) shall not exceed \$145,000 in the aggregate.

The Borrower will indemnify and hold harmless the DIP Lender and its respective affiliates, officers, directors, employees, agents, advisors, attorneys and representatives from and against all losses, liabilities (including coverage of environmental liabilities), claims, damages or other expenses arising out of or relating to the DIP Financing Documents and the Borrower’s use of the financing provided thereunder, except in cases of the DIP Lender’s fraud, willful misconduct, or gross negligence. The indemnification will survive and continue for the benefit of all such persons or entities.

Governing Law: Federal bankruptcy law and the laws of the State of California.

[Signature Page Follows]

SERENE INVESTMENT MANAGEMENT LLC



Adam Phillips
Manager of Serene Investments
Management LLC

KS MATTSON PARTNERS, LP

By: _____

Signature: _____

Title: _____

Date: _____

SERENE INVESTMENT MANAGEMENT LLC

By: _____
Signature: _____
Title: _____
Date: _____

Accepted and Approved:

KS MATTSON PARTNERS, LP

By: ROBBIN L. ITRKOV
Signature: [Signature]
Title: Responsible Individual
Date: 7/29/2025

Exhibit A - Collateral Schedule

Upon entry of the Interim Order, the DIP Lender shall receive a first priority perfected lien on the unencumbered properties listed in Section A-1 and a second priority perfected lien on the encumbered properties listed in Section A-2, subject only to the Carve-Out and first, second, or third priority liens on the A-2 properties set forth below.

A-1. Unencumbered Properties (First Priority Liens)

#	<i>Property Address</i>
1	2500 Castle Rd, Sonoma, CA 95476
2	3200 Castle Rd, Sonoma, CA 95476
3	443 Casabonne Lane, Sonoma, CA 95476
4	62 Farragut Ave. B, Piedmont, CA 94610
5	904 Highway 121, Sonoma, CA 95476
6	23105 Millerick Rd, Sonoma, CA 95476

A-2. Encumbered Properties (Second, Third, or Fourth Priority Liens)

#	<i>Property Address</i>
1	454 15 th St, Del Mar, CA 92014
2	405 London Way, Sonoma, CA 95476
3	415 Pacific Ave, Piedmont, CA 94611
4	3003 Castle Rd, Sonoma, CA 95476
5	1014 1 st St W, Sonoma, CA 95476
6	22 Boyes Blvd, Boyes Hot Springs, CA 95476
7	856 4 th St E, Sonoma, CA 95476
8	969 Rachael Rd, Sonoma, CA 95476
9	1834-1836 Ocean Front, Del Mar, CA 92014
10	531-533 Camino Del Mar, CA 92014

A-3. Additional Collateral

1 The note in the amount of \$19 million held by Borrower and secured by a junior lien on the property located at 1716 Ocean Front, Del Mar, CA 92014.

Exhibit B
Representations and Warranties

To induce the DIP Lender to enter into the term sheet and to make advances under the DIP Facility, the Debtor/Borrower represents, warrants and covenants to the DIP Lender that the following statements are true, correct and complete as of the date hereof. References to the knowledge or awareness of Debtor are deemed to include the actual knowledge of any officer or director of the Debtor after reasonable inquiry.

Disclosure. To the best of the Debtor's knowledge, no representation or warranty of the Debtor contained in this term sheet or any other document, certificate or written statement furnished to the DIP Lender by or on behalf of any such Person for use in connection with the DIP Facility contains any untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made.

No Conflict; Compliance. The consummation of the transactions contemplated by this term sheet does not and will not violate or conflict with any laws, rules, regulations or orders of any Governmental Authority or violate, conflict with, result in a breach of, or constitute a default (with due notice or lapse of time or both) under any contractual obligation or organizational documents of Debtor. To the best of the Debtor's knowledge, Debtor is in compliance with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority and the obligations, conditions and covenants contained in all contractual obligations other than those laws, rules, regulations, orders and provisions of such contractual obligations the noncompliance with which could not be reasonably expected to have, either individually or in the aggregate, a material adverse effect.

Organization and Powers. Debtor is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and qualified to do business in all states where such qualification is required except where failure to be so qualified could not reasonably be expected to have a material adverse effect. Debtor has all requisite organizational power and authority to own and operate its properties, to carry on its business as now conducted and proposed to be conducted, and, subject to approval by the Bankruptcy Court, to enter into this term sheet and to incur the obligations under the DIP Facility, grant liens and security interests in the Collateral and carry out the transactions contemplated by this term sheet and the other DIP Financing Documents.

Binding Obligation. Subject to approval by the Bankruptcy Court, this term sheet is, and the other DIP Facility Documents when entered or executed and delivered will be, the legally valid and binding obligations of the applicable parties thereto, each enforceable against each of such parties, as applicable, in accordance with their respective terms.

Bankruptcy Case. Proper notice of the hearing for the approval of the Interim Order and Final Order will be given to all parties entitled to notice. Debtor will make best efforts to ensure that all information, reports and other papers and data with respect to the Debtor (other than projections), if any, furnished to the DIP Lender were, at the time furnished, complete and correct in all material respects, or have been subsequently supplemented by other information, reports or

other papers or data, to the extent necessary to give the DIP Lender a true and accurate knowledge of the subject matter in all material respects other than as set forth in this agreement.

All insurance reasonably required to be obtained and maintained by the Debtor and its subsidiaries has been obtained and all premiums then and payable on all such insurance have been paid or will be paid immediately upon receipt by the Debtor of the DIP Financing proceeds.

Taxes. The Debtor has filed, caused to be filed, or intends to file all material tax returns required to be filed, and have paid, or have made adequate provision for the payment of, all taxes reflected therein and all real property taxes for the Properties, except (1) for taxes that are being contested in good faith by appropriate proceedings and are reserved against (to the extent required by GAAP) by Debtor, (2) real property taxes that will be immediately paid with the proceeds of a draw or (3) to the extent that failure to pay such taxes (that are not real property taxes for the Property) could not reasonably be expected to have a material adverse effect.

Government Consents. The Debtor has obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all governmental authorities that are necessary for the continued operation of the Debtor's business as currently conducted, except where the failure to do so would not reasonably be expected to cause a material adverse effect.

Use of Proceeds. The Borrower shall use the proceeds of the Loans in accordance with the Approved Budget and the Interim Order and Final Order entered in connection with the Bankruptcy Case exclusively for one or more of the following purposes (subject to any additional restrictions on the use of such proceeds and any such cash collateral set forth in the Interim Order or the Final Order):

(a) to pay any fees of professionals (including, without limitation, to fund the Carve-Out Account) and as otherwise provided in the DIP Financing Orders, and pay the DIP Lender its fees and expenses as and when due.;

(b) to pay certain costs, premiums, fees and expenses related to the Bankruptcy Case in accordance with the Approved Budget; and

(c) to fund working capital and other needs of the Debtor and its subsidiaries in accordance with the Approved Budget.

Exhibit C

Affirmative and Negative Covenants

AFFIRMATIVE COVENANTS

Debtor covenants and agrees that from and after the date hereof and until the Termination Date:

Compliance With Laws and Contractual Obligations. The Debtor will, in all material respects, (a) comply with (i) the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including, without limitation, laws, rules, regulations and orders relating to taxes, employer and employee contributions, securities, employee retirement and welfare benefits, environmental protection matters and employee health and safety) as now in effect and which may be imposed in the future in all jurisdictions in which the Debtor are now doing business or may hereafter be doing business and (ii) the obligations, covenants and conditions contained in all contractual obligations of the Debtor other than those laws, rules, regulations, orders and provisions of such contractual obligations the noncompliance with which could not be reasonably expected to have, either individually or in the aggregate, a material adverse effect, and (iii) its obligations and responsibilities as a debtor-in-possession under the Bankruptcy Code, the rules of procedure of the Bankruptcy Court, and any order of the Bankruptcy Court, and (b) maintain or obtain all licenses, qualifications and permits now held or hereafter required to be held by the Debtor, for which the loss, suspension, revocation or failure to obtain or renew, could reasonably be expected to have, either individually or in the aggregate, a material adverse effect.

Maintenance of Properties; Insurance. The Debtor will maintain or cause to be maintained in good repair, working order and condition the properties constituting the Collateral (the “**Properties**” and each a “**Property**”) and all material properties used in the business of the Debtor necessary to maintain the value of the Properties, and will make or cause to be made all appropriate repairs, renewals and replacements thereof, ordinary wear and tear excepted. The Debtor will maintain or cause to be maintained, with financially sound and reputable insurers, public liability and property damage insurance with respect to the Properties against loss or damage of the kinds customarily carried or maintained by corporations of established reputation engaged in similar businesses and in amounts reasonably acceptable to the DIP Lender and will deliver evidence thereof to the DIP Lender. In the event the Debtor fails to provide the DIP Lender with evidence of the insurance coverage required by this agreement, the DIP Lender may purchase insurance at the Debtor’s expense to protect the DIP Lender’s interests in the Collateral and the Properties. The Debtor may, and the DIP Lender shall at the written request of the Debtor, later cancel any insurance purchased by the DIP Lender, but only after providing the DIP Lender with evidence that the Debtor has obtained insurance as required by this term sheet. If the DIP Lender purchases insurance for the Properties, the Debtor will be responsible for the costs of that insurance, including interest and other charges imposed by the DIP Lender in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the DIP Obligations.

Taxes. Borrower shall make due and timely payment or deposit of all taxes required of it by law (including the Bankruptcy Code), provided that Borrower need not make any payment if (i) the amount or validity of such payment is contested in good faith by appropriate proceedings and is reserved against (to the extent required by GAAP (or such other accounting basis selected by Borrower, consistently applied and reasonably acceptable to Lender)) by Borrower and (ii) the failure to make payment pending such contest could not reasonably be expected to result in a material adverse effect.

Senior Loans. Borrower shall make due and timely payment of all obligations owing by Borrower on account of the Properties designated as “Encumbered Properties” on the Collateral Schedule.

Inspection; Lender Meeting. The Debtor shall permit any authorized representatives of the DIP Lender to visit, audit and inspect the Properties and materials relating thereto, including the Debtor’s financial and accounting records, and to make copies and take extracts therefrom, and to discuss its and their affairs, finances and business with its and their officers and certified public accountants, at such reasonable times during normal business hours and as often as may be reasonably requested. Representatives of the DIP Lender will be permitted to accompany representatives of the DIP Lender during each visit, inspection and discussion referred to in the immediately preceding sentence.

Organizational Existence. The Debtor will at all times preserve and keep in full force and effect its organizational existence and all rights and franchises material to its respective business.

Bankruptcy Matters. The Debtor shall timely comply with all obligations of a debtor-in-possession under Chapter 11 of the Bankruptcy Code, including, but not limited to, its obligation to file monthly operating reports; provided, however, that such operating reports will be deemed timely filed if filed within 30 days of the respective due date.

Upon request, the Debtor shall provide to the DIP Lender all reports, if any, provided to the Debtor’s prepetition lenders that relate in any way to the Collateral or the Properties.

The Debtor shall properly exercise any trust responsibilities imposed on it by reason of withholding from employees’ pay, and timely file all tax and other returns and other reports with each governmental authority to whom any of the Debtor is obligated to so file.

The Debtor will comply with and use its assets in compliance with applicable law.

The Debtor shall keep the Properties in good order and repair (ordinary wear and tear and insured casualty excepted).

Further Assurances. At any time and from time to time the Debtor shall execute and deliver such further instruments and take such further action as may reasonably be requested by DIP Lender to effect the purposes of this Agreement.

NEGATIVE COVENANTS

Debtor covenants and agrees that from and after the date hereof until the Termination Date:

Liens and Mortgages. Debtor shall not directly or indirectly create, incur, assume or permit to exist any liens or mortgages on or with respect to the Properties or the Collateral, whether now owned or hereafter acquired, or any income or profits therefrom, except for liens and mortgages in favor of the DIP Lender and holders of mortgages on the Relief Date (solely to the extent such liens were valid and non-avoidable as of the Relief Date and properly perfected prior to the Relief Date or perfected subsequent to the Relief Date as permitted by section 546(b) of the Bankruptcy Code).

Investments. Debtor shall not directly or indirectly make or own any investments except as permitted by the Bankruptcy Court.

Disposal of Assets or Subsidiary Stock. Debtor shall not directly or indirectly convey, sell, lease, sublease, transfer or otherwise dispose of, or grant any Person an option to acquire, in one transaction or a series of related transactions, any of its property, business or assets, whether now owned or hereafter acquired, except as set forth in an order of the Bankruptcy Court approving such disposition.

Bank Accounts. Other than the Carve-Out Account and any debtor-in-possession bank accounts established by the Debtor after the Relief Date and prior to the date of this term sheet, Debtor shall not establish any new bank accounts, without prior written notice to DIP Lender and unless the DIP Lender and the bank at which the account is to be opened enter into a control agreement pursuant to which such bank (a) acknowledges the security interest of the DIP Lender in such bank account, (b) agrees to comply with instructions originated by Lender directing disposition of the funds in the bank account without further consent from Debtor, and (c) agrees to subordinate and limit any security interest the bank may have in the bank account on terms reasonably satisfactory to DIP Lender.

Debtor shall not use the proceeds of the DIP Facility other than in accordance with this agreement, the Approved Budget and the DIP Financing Orders.

From the date hereof and for so long as the any obligation is owing to the DIP Lender hereunder, Debtor agrees that it shall not, and shall not seek authority to (unless in connection with an amendment to this agreement that is reasonably likely to be approved by the DIP Lender or that proposed to repay the DIP Lender in full), incur, create, assume, suffer to exist or permit any superpriority claim or lien on the Collateral, other than (i) the liens and superpriority claim in favor of the DIP Lender and (ii) liens that have a priority senior or *pari passu* to the DIP Lender (the "Permitted Prior Liens").

From the date hereof and for so long as any obligation is owing to the DIP Lender hereunder and the DIP Financing Documents, Debtor agrees that it shall not, and shall not seek authority to (unless in connection with an amendment to the agreement that is reasonably likely to

be approved by the DIP Lender), convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including, without limitation, any capital stock of Debtor, receivables and fee or leasehold interests) outside of the ordinary course of Debtor's business operations in to any Person prior to obtaining an appropriate order of the Bankruptcy Court with such application for such order to be provided on notice to DIP Lender.

Change in Business; Change in Executive Office. Debtor shall not engage in any business, or permit any of its subsidiaries to engage in any business, other than the businesses currently engaged in by Debtor (or the current business of such subsidiaries) and any business substantially similar or related thereto (or incidental thereto), or cease to conduct business in the manner conducted by Debtor as of the Relief Date; or without thirty (30) calendar days prior written notification to DIP Lender: (a) relocate its chief executive office outside the state of incorporation or change its legal name; (b) add any new offices or business locations or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars (\$100,000) to a bailee; or (c) without DIP Lender's prior written consent, change the date on which its fiscal year ends.

Mergers or Acquisitions. Debtor shall not, without prior written notification to DIP Lender and approval of the Bankruptcy Court, merge, divide (pursuant to Delaware limited liability company law or any similar statute) or consolidate, or permit any of its subsidiaries to merge, divide or consolidate, with or into any other business organization, or acquire, or permit any of its subsidiaries to acquire, all or substantially all of the capital stock or property of another Person.

Indebtedness. Debtor shall not, without the DIP Lender's consent, create, incur, guarantee, assume or be or remain liable with respect to any DIP Obligations, or permit any subsidiary so to do other than as contemplated by this agreement and the DIP Financing Orders.

Encumbrances. Debtor shall not create, incur, assume or suffer to exist any lien with respect to any of its property that is Collateral, or permit any of its subsidiaries so to do other than as in existence on the Relief Date, or enter into any agreement with any Person other than DIP Lender to grant a security interest in, or otherwise encumber, the Collateral or the Property, except as set forth in the Interim Order or Final Order.

Distributions. Debtor shall not pay any dividends or make any other distribution or payment on account of or in redemption, retirement or purchase of any equity interests.

Transactions with Affiliates. Debtor shall not directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Debtor except for transactions that are in the ordinary course of Debtor's business, upon fair and reasonable terms that are no less favorable to Debtor than would be obtained in an arm's length transaction with a non-affiliated Person.