

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	Chapter 11
)	
OTB HOLDING LLC, <i>et al.</i> , ¹)	Case No. 25-52415 (SMS)
)	
)	
Debtors.)	(Joint Administration Requested)

**DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING
THE DEBTORS TO CONTINUE PREPETITION INSURANCE AND WORKERS'
COMPENSATION POLICIES AND TO PAY PREPETITION PREMIUMS AND
RELATED OBLIGATIONS AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) file this *Emergency Motion for Entry of an Order (I) Authorizing the Debtors to Continue Prepetition Insurance and Workers’ Compensation Policies and to Pay Prepetition Premiums and Related Obligations and (II) Granting Related Relief* (the “Motion”). In support of this Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over these cases and this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409(a).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: OTB Holding LLC (3213), OTB Acquisition LLC (8500), OTB Acquisition of New Jersey LLC (1506), OTB Acquisition of Howard County LLC (9865), Mt. Laurel Restaurant Operations LLC (5100), OTB Acquisition of Kansas LLC (9014), OTB Acquisition of Baltimore County, LLC (6963). OTB Holding LLC’s service address is One Buckhead Plaza, 3060 Peachtree Road, NW, Atlanta, GA 30305.



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2. The bases for the relief requested herein are sections 105, 363, 1107, 1108, and 1112 of title 11 of the United States Code, (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of the Bankruptcy Procedure (the “Bankruptcy Rules”), Rules 9006-2, 9013-1 and 9013-2 of the Local Rules of Practice for the United States Bankruptcy Court for the Northern District of Georgia (the “Local Rules”) and the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the “Complex Case Procedures”).

BACKGROUND

3. On March 4, 2025 (the “Petition Date”), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Court”). The Debtors have continued in possession of their properties and have continued to operate and manage their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and no official committee has yet been established in these cases.

4. The factual background relating to the Debtors’ commencement of these cases is set forth in the *Declaration of Jonathan M. Tibus in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”) filed on or about the date hereof and incorporated herein by reference.²

² Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the First Day Declaration.

INSURANCE POLICIES AND PROGRAMS

A. Insurance Policies

5. In connection with the operation of their businesses, the Debtors maintain various liability, property, professional, and other insurance policies that provide the Debtors with coverage related to, among other things, general liability, workers' compensation, excess liability, umbrella, directors' and officers' liability, liquor liability, property liability, crime, employment practices liability, medical stop-loss and automobile liability coverage (collectively, and as described more fully below, the "Insurance Policies") administered by various third-party insurance carriers (the "Insurance Carriers"). The Debtors' Insurance Policies are listed on **Exhibit A** hereto, together with the applicable Insurance Carrier, policy period, deductible or self-insured retention and policy limits. The Debtors maintain the Insurance Policies to help manage and limit the various risks associated with operating their businesses, which is essential to the preservation of the value of the Debtors' estates.

6. Pursuant to the Insurance Policies, the Debtors pay premiums based on fixed rates and are invoiced directly or indirectly by each Insurance Carrier, certain of which are paid through Lockton Companies Inc. (the "Insurance Broker"), as well as certain other obligations related thereto (including broker or advisor fees, taxes, surcharges or other fees associated therewith, collectively, the "Insurance Premiums"). The majority of the Debtors' Insurance Premiums are financed under the Premium Financing Agreement (as defined below) and are paid on an annual basis. The Debtors pay fees (the "Brokerage Fees") to the Insurance Brokers and historically have spent approximately \$155,000 annually on Brokerage Fees. As of the Petition Date, the Debtors estimate that approximately \$200,000 of Brokerage Fees will be due and owing. By this Motion,

the Debtors seek authority, but not direction, to satisfy all such Brokerage Fees in the ordinary course of business.

7. The Debtors historically have spent approximately \$2,050,000 annually on Insurance Premiums for the Insurance Policies, which premiums are generally financed through the Premium Financer (as defined below) or, in limited cases, paid directly annually. The Debtors prepay (or causes to be prepaid through the Premium Financer) an annual premium for each of the Insurance Policies on or around the start date of each policy period and then make subsequent adjustments on a monthly period. The Insurance Policies, for the most part, renew in December. The Debtors believe that, as of the Petition Date, there are no outstanding prepetition Insurance Premiums due on account of the Insurance Policies.

B. Audits

8. Certain of the Insurance Policies, including, without limitation, the general liability, automobile and workers compensation, are subject to premium audits at the end of their respective term (“Audits”). These Audits may result in additional prepetition Insurance Premiums being due and payable by the Debtors during the pendency of these chapter 11 cases (such additional Insurance Premiums, “Audit Amounts”). As of the Petition Date, the Debtors do not owe any amounts on account of Audit Amounts relating to prior extensions of the Insurance Policies. However, for the avoidance of doubt, by this Motion, the Debtors seek authority, but not direction, to satisfy all such Audit Amounts in the ordinary course of business.

C. Workers’ Compensation Programs

9. Under state law, the Debtors are required to maintain workers’ compensation Insurance Policies to provide their employees with coverage for claims arising from or related to

their employment with the Debtors. In the ordinary course of business, the Debtors maintain workers' compensation insurance at the level required by statute for each U.S. state in which the Debtors conduct business (each a "Workers' Compensation Program," and collectively, the "Workers' Compensation Programs"). The various Workers' Compensation Programs are administered by (i) The Travelers Indemnity Company ("Travelers"), solely with respect to Workers' Compensation Claims (as defined below) arising on or prior to June 30, 2023, (ii) Gallagher Bassett Services Inc. ("Gallagher"), solely with respect to Workers' Compensation Claims (other than the Workers' Compensation Program in the state of Texas) arising on or after July 1, 2023 and (iii) Method Insurance ("Method"), solely with respect to the Workers' Compensation Program in the state of Texas. The Insurance Carriers for the Workers' Compensation Programs are as follows: (i) Travelers, solely with respect to Workers' Compensation Claims arising on or prior to June 30, 2023, (ii) Starr Indemnity & Liability Company ("Starr"), solely with respect to Workers' Compensation Claims (other than those arising in the State of Texas) arising on or after July 1, 2023, and (iii) Method, solely with respect to the Workers' Compensation Program in Texas. The Debtors pay all amounts related to Workers' Compensation Claims up to a fixed deductible in the amount of \$150,000 per incident, in addition to a fixed annual premiums of approximately \$195,000 (the "Workers' Compensation Premiums") in the aggregate that are financed under the Premium Financing Agreement.

10. Gallagher, Travelers and Method either invoice the Debtors monthly or pull payment from the appropriate Loss Funds Account (as defined below) for the administration fees arising in connection with the Workers' Compensation Claims (as defined below) (collectively, the "Workers' Compensation Administration Fees"). The Debtors estimate that they pay

approximately \$6,000 per month on average as a result of Workers' Compensation Administration Fees. As of the Petition Date, the Debtors estimate that approximately \$6,000 in Workers' Compensation Administration Fees remain outstanding.

11. In connection with the Workers' Compensation Programs, the Debtors separately fund three separate loss fund accounts as follows: (i) a loss fund account controlled by Gallagher that holds approximately \$43,000 ("Gallagher Loss Fund Account") as of the Petition Date; (ii) a loss fund account controlled by Travelers that holds approximately \$75,000 as of the Petition Date ("Travelers Loss Fund Account"); and (iii) a loss fund account controlled by Method that holds approximately \$10,000 as of the Petition Date (the "Method Loss Fund Account", and together with the Gallagher Loss Fund Account and the Travelers Loss Fund Account, the "Loss Fund Accounts"). The funds in the Loss Funds Accounts are used to satisfy claims arising from the applicable Workers' Compensation Programs and costs associated therewith ("the "Workers' Compensation Claims" and, collectively with the Insurance Premiums, Brokerage Fees, Workers' Compensation Administration Fees, and other obligations related thereto, "Insurance Obligations"). The Debtors estimate that they pay approximately \$20,000 per month on average as a result of Workers' Compensation Claims.

12. As of the Petition Date, the Debtors estimate that there is an aggregate total liability and costs of approximately \$626,800 outstanding in connection with pending Workers' Compensation Claims. However, the pre-petition liability for Workers' Compensation Claims will not be final until such amounts are invoiced and paid, so the Debtors seek authority, but not direction, to satisfy all pre-petition liability with respect to the Workers' Compensation Claims as it becomes due. In addition, the Debtors request authorization to renew, modify or supplement the

Workers' Compensation Programs or execute new workers' compensation insurance in the ordinary course of business. By this Motion, the Debtors seek authority, but not direction, to satisfy all pre-petition liability with respect to the Workers' Compensation Programs as such amounts become due, including, without limitation, the Workers' Compensation Administration Fee and reimbursement of the Loss Fund Accounts.

13. Additionally, certain states statutorily require the Debtors to obtain workers' compensation insurance from the applicable state government on account of the individuals employed by the Debtors in such state and make *de minimis* payments on account of claims. The Debtors pay workers' compensation insurance premiums directly to the applicable governmental entity in Ohio ("State Workers' Compensation Premiums") in connection with each such state's workers' compensation scheme. The Debtors are at times required to make *de minimis* payments to third-party administrators and other services in those states in connection with workers' compensation claims ("State Workers' Compensation Claim Payments", together with the State Workers' Compensation Premiums, the "State Workers' Compensation Payments"). The Debtors are unaware of any material amounts due and owing as of the Petition Date on account of State Workers' Compensation Payments. However, the Debtors seek authority, but not direction, to satisfy all pre-petition liability with respect to the State Workers' Compensation Payments as it becomes due.

D. The Insurance Premium Financing Program

14. Because it is not always economically advantageous for the Debtors to pay the Insurance Premiums on a lump-sum basis, the Debtors finance the majority of their Insurance Premiums, pursuant to that certain Premium Financing Agreement – Promissory Note, dated as of

December 18, 2024 (the “Premium Financing Agreement”), by and between OTB Acquisition LLC and AFCO Credit Corporation (the “Premium Financier”). The Premium Financing Agreement provides financing for all of the Debtors’ Insurance Policies except for flood and liquor liability policies (the “Financed Policies”).

15. Pursuant to the terms of the Premium Financing Agreement with the Premium Financier, the Debtors are required to make eleven (11) monthly installments to the Premium Financier of \$192,666.33 each toward the balance of the financing over the term of the Premium Financing Agreement. For the Financed Policies, the initial payment of \$192,666.33 under the agreement was made on or around January 1, 2025. The Debtors have a remaining balance of \$1,733,997 (reflecting nine (9) monthly payments). The amount financed under the Premium Financing Agreement accrues interest at an annual fixed rate of 7.48%.

16. Pursuant to the Premium Financing Agreement, certain of the Debtors granted the Premium Financier a security interest in, among other things, any and all unearned premiums and dividends that may become payable for any reason under the financed Insurance Policies. If the Debtors do not satisfy their obligations under the Premium Financing Agreement, the Premium Financier has the right, subject to the automatic stay, to, among other things, terminate any covered Insurance Policies.

17. By this Motion, the Debtors request authority to continue honoring their obligations to the Premium Financier in the ordinary course of business, including authority to pay any amounts that may be due and owing or that come due and owing under the Premium Financing Agreement. In addition, the Debtors request authorization to renew, modify or supplement the

Premium Financing Agreement or execute new Premium Financing Agreement in the ordinary course of business.

E. Letters of Credit

18. The Debtors have approximately \$1,090,000 of outstanding letters of credit (“Letters of Credit”), all issued by 1970 Group, Inc. (“1970 Group”), which the Debtors posted in favor of certain Insurance Carriers for their Workers’ Compensation Programs and commercial automobile policy and to secure the outstanding liability pursuant to the Workers’ Compensation Claims and claims arising under the commercial automobile policy. The Letters of Credit are not currently cash collateralized. As of the Petition Date, the Debtors do not believe there are any payments due and owing on account of the Letters of Credit and the Debtors are not aware of any pending requests for payment on the Letters of Credit. The Debtors request authority to honor the current Letters of Credit and renew, replace, modify, extend, or add to the Letters of Credit as needed postpetition, including through the issuance of new letters of credit or the posting of cash collateral.

F. Surety Bond Program

19. In the ordinary course of business, the Debtors are required to provide various types of surety bonds (“Surety Bonds”) to secure obligations owed to various third parties, including municipalities, state and federal governmental units, and public agencies, relating to their operations (the “Surety Bond Program”). The various bonds provided by the Debtors are listed on the attached **Exhibit B**.

20. Pursuant to their Surety Bond Program, in the ordinary course of business, the Debtors are required to provide Surety Bonds to certain third parties (the “Obligees”), including

governmental units and other public agencies, to secure the Debtors' payment or performance of certain obligations in connection with license and permits and sales and use taxes. In particular, the Debtors are required to purchase Surety Bonds in compliance with applicable state regulations relating to liquor licenses and permits for operating restaurants. The Surety Bonds are issued by certain sureties (each, a "Surety" and collectively, the "Sureties") including, without limitation, Travelers Casualty and Surety Company of America. The Debtors estimate that as of the Petition Date, the total face principal amount of all Surety Bonds is approximately \$158,800, consisting of six (6) Surety Bonds with an average face amount of approximately \$26,500.

21. The Debtors maintain the necessary surety bond coverage through various surety bond policies (the "Surety Policies"), under which the Debtors have certain obligations (the "Surety Obligations", and together with the Insurance Obligations, the "Insurance and Surety Obligations"), including the payment of annual premiums to the Sureties (the "Surety Premiums"). The Surety Premiums are determined based upon a fixed rate and total of approximately \$2,000 per year in the aggregate. The Debtors remit premium payments when the bonds are issued or renewed on an annual basis.

22. The Debtors believe that no Surety Premiums or amounts on account of other Surety Obligations are outstanding as of the Petition Date. Accordingly, by this Motion, the Debtors seek authority, but not direction, to pay any such Surety Premiums and any other Surety Obligations that may become due and owing during these chapter 11 cases in the ordinary course.

23. As a condition to issuing the bonds, certain of the Sureties require that the Debtors enter into indemnity agreements (collectively, the "Indemnity Agreements"), pursuant to which the Sureties are indemnified from any loss, cost, or expense that the Sureties may incur on account

of the issuance of any bonds on behalf of the Debtors. The Debtors seek authority to continue to honor and make payments on account of such indemnification obligations irrespective of whether such indemnification obligations arose during or relate to the prepetition period.

RELIEF REQUESTED

24. By this Motion, the Debtors request entry of an order, substantially in the form annexed hereto as **Exhibit C**, (a) granting them authority to (i) continue their prepetition Insurance Policies (including payment of Brokerage Fees), as such practices, programs, and policies were in effect as of the Petition Day; (ii) renew, amend, supplement, extend, or purchase Insurance Policies to the extent that the Debtors determine that such action is in the best interest of their estates; (iii) honor the Insurance Obligations and Surety Obligations, including by paying any prepetition Insurance Obligations and Surety Obligations in the ordinary course of business during these chapter 11 cases; (iv) honor the current Letters of Credit and renew, replace, modify, extend, or add to the Letters of Credit as needed postpetition, including through the issuance of new letters of credit or the posting of cash collateral; (v) modification of the automatic stay to the extent necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Programs; (vi) honor their obligations under the Premium Financing Agreement without interruption and in accordance with the same practices and procedures as were in effect prior to the commencement of the Debtors' chapter 11 cases to the extent that the Debtors determine such action is in the best interest of their estates; (vii) enter into new premium financing agreements in the ordinary course of business to the extent the Debtors determine such action is in the best interest of their estates; and (viii) pay all amounts necessary to maintain the Insurance

Policies; (b) authorizing the Debtors' banks and other financial institutions to receive, process and pay any and all checks and other transfers related to such claims; and (c) granting related relief.

BASIS FOR RELIEF REQUESTED

A. The Debtors are Authorized to Maintain Insurance Policies, Surety Bond Program, and Honor Insurance Obligations in the Ordinary Course.

25. As discussed above, the Insurance Policies and Surety Bond Program provide a comprehensive range of protection for the Debtors' business, properties, and assets. As such, it is essential that the Debtors' insurance coverage continues in full force and effect during the course of these chapter 11 cases. Under section 1112(b)(4)(C) of the Bankruptcy Code, "failure [of a debtor] to maintain appropriate insurance [where such failure] poses a risk to the estate or to the public" is "cause" for mandatory conversion or dismissal of a chapter 11 case. 11 U.S.C. § 1112(b)(4)(C). Similarly, certain of the Insurance Policies are required by various state and federal regulations. To ensure that the Debtors comply with section 1112(b)(4)(C) of the Bankruptcy Code, applicable state and federal regulations, and the U.S. Trustee Guidelines, the Debtors respectfully request the authority to continue to honor obligations arising under the Insurance Policies and Surety Bond Program and, if necessary, to renew, supplement, or purchase insurance coverage on a postpetition basis in the ordinary course of business.

26. This Court has authority to grant the relief requested herein pursuant to sections 105(a) and 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Under section 363(b), courts generally require only that the debtor "show that a sound business purpose" justifies the proposed use of property. *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *See*

also *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers). Moreover, “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

27. Further, section 105(a) of the Bankruptcy Code provides, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The Court may use its power under section 105(a) to authorize payment of prepetition obligations under the “necessity of payment” doctrine. *See, e.g., In re Chateaugay Corp.*, 80 B.R. 279, 287 (S.D.N.Y. 1987). Under the “necessity of payment” doctrine, a bankruptcy court can exercise its equitable powers to permit the payment of prepetition claims of those parties whose goods or services are critical to reorganization of the debtor’s operations. *See, e.g., In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (“[I]f payment of a claim which arose prior to reorganization is essential to the continued operation of the railroad during reorganization, payment may be authorized even if it is made out of corpus.”); *In re Boston & Maine Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors’ continued operation); *In re Columbia Gas Sys.*, 171 B.R. 189, 192 (Bankr. D. Del. 1994) (necessity of payment doctrine is applicable where “payment is essential to continued operation of the business”); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176

(Bankr. S.D.N.Y. 1989) (stating that the rationale of the necessity of payment rule corresponds with the paramount goal of Chapter 11 debtor reorganization); *In re Structurelite Plastics Corp.*, 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (agreeing in “principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize payment of prepetition claims where such payment is necessary to ‘permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately’”) (citation omitted).

28. Courts in this District have routinely granted relief similar to that requested herein. *See, e.g., In re LaVie Care Centers LLC*, Case No. 24-55507 (PMB) (Bankr. N.D. Ga. July 10, 2024) [Docket No. 238]; *In re Virtual Citadel, Inc.*, Case No. 20-62725 (JWC) (Bankr. N.D. Ga. Feb. 19, 2020) [Docket No. 28]; *In re The Krystal Company*, Case No. 20-61065 (PWB) (Bankr. N.D. Ga. Jan. 22, 2020) [Docket No. 37]; *In re Jack Cooper Ventures, Inc.*, Case No. 19-62393 (PWB) (Bankr. N.D. Ga. Sep. 3, 2019) [Docket No. 225]; *In re Beaulieu Group, LLC*, Case No. 17-41677 (PWB) (Bankr. N.D. Ga. July 20, 2017) [Docket No. 44]; *In re AstroTurf, LLC*, Case No. 16-41504 (PWB) (Bankr. N.D. Ga. July 8, 2016) [Docket No. 55]; *In re Southern Regional Health System, Inc.*, Case No. 15-64266 (WLH) (Bankr. N.D. Ga. Aug. 11, 2015) [Docket No. 66]; *In re Cagle’s, Inc.*, Case No. 11-80202 (JB) (Bankr. N.D. Ga. Oct. 20, 2011) [Docket No. 28]; *In re AtheroGenics, Inc.*, Case No. 08-78200 (JEM) (Bankr. N.D. Ga. Oct. 16, 2008) [Docket No. 55]; *In re Pike Nursery Holding, LLC*, Case No. 07-79129 (MGD) (Bankr. N.D. Ga. Nov. 16, 2007) [Docket No. 34].³

³ Because of the voluminous nature of the orders cited herein, they are not attached to this Motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

29. The Debtors submit that there is sufficient business justification to grant the relief requested herein because failure to pay premiums and related insurance expenses when due may harm the Debtors' estates in several ways. The Insurance Carriers may refuse to renew the Insurance Policies absent the Debtors' ongoing satisfaction of the Insurance Obligations as and when they become due, which will require the Debtors to obtain replacement policies and programs and possibly to reconfigure their risk management program. This, in turn, would require the commitment of significant resources and could result in less favorable coverage or terms from the Debtors' insurers. Additionally, the Insurance Carriers could attempt to terminate the Debtors' existing Insurance Policies, which could threaten the Debtors' ability to continue operating their business, given the Debtors' myriad regulatory and contractual obligations to maintain specific amounts and types of insurance coverage.

30. It is essential to the continued operation of the Debtors' business that the Insurance Policies be maintained on an ongoing and uninterrupted basis. The failure to pay the insurance related obligations when due may affect the Debtors' ability to maintain, obtain or renew coverage. Indeed, the Insurance Policies are essential to the preservation of the value of the Debtors' business, properties, and assets and their ability to successfully prosecute these chapter 11 cases. Accordingly, in the event any of the Insurance Policies lapse or new coverage is required or necessary, it is imperative that the Debtors be able to renew, supplement, or purchase insurance coverage on a postpetition basis in the ordinary course of business. The Insurance Policies protect the Debtors and other parties in interest from losses caused by casualty, natural disaster, fraud, or other unforeseen events.

31. If the liability and property Insurance Policies are terminated or lapse, the Debtors could be exposed to substantial liability for damages resulting to persons and property of the Debtors and others. Such a result would also place at risk the Debtors' estates' assets necessary to satisfy the secured and unsecured claims of creditors. Additionally, continued effectiveness of the directors' and officers' liability Insurance Policies is necessary to the retention of qualified and dedicated senior management. Moreover, pursuant to the terms of many of their leases and commercial contracts, as well as the guidelines established by the Office of the United States Trustee, the Debtors are obligated to remain current with respect to many of their primary Insurance Policies.

32. The Court should also authorize the Debtors to continue paying their Insurance Brokers in the ordinary course of business. The Insurance Brokers are intimately familiar with the Debtors' Insurance Policies and Insurance Obligations. Losing the services provided by the Insurance Brokers would result in a costly disruption to the Debtors' businesses and would detract from efficient administration of these chapter 11 cases.

33. The amounts the Debtors propose to pay in respect to the Insurance Policies and Surety Obligations are relatively small in light of the size of the Debtors' estates and the Debtors' potential exposure absent insurance coverage. It is critical that the Debtors continue to maintain the Insurance Policies on an uninterrupted basis and be permitted to pay premiums and related costs in the ordinary course of business and consistent with prepetition practices.

34. Further, the Debtors are required by various governmental parties—including municipalities, state governmental units, and public agencies—to provide surety bonds under the Surety Bond Program in order to continue their operation of restaurants in those jurisdictions. If

the Debtors were unable to continue the Surety Bond Program, the Debtors may be unable to operate restaurants in those jurisdictions. Similarly, the Debtors are required to obtain Letters of Credit in order to provide security for their obligations under certain Insurance Policies and liquor licenses. If the Debtors were unable to honor the current Letters of Credit and renew, modify or add to the Letters of Credit as needed postpetition then the Debtors Insurance Policies and Programs would be at risk – a result that would compromise the ongoing operation of the Debtors for the reasons discussed herein.

35. The Debtors request that authorization of the payment of the various Insurance Obligations and Surety Obligations hereunder not be deemed to constitute the postpetition assumption of any executory contract pursuant to section 365 of the Bankruptcy Code. The Debtors are in the process of reviewing their Insurance Policies and reserve all rights with respect to the Policies.

36. The relief requested by this Motion represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. Accordingly, authorizing the Debtors to pay prepetition amounts related to the Insurance Obligations and Surety Obligations is in the best interests of the Debtors, their estates, and their economic stakeholders.

B. The Court Should Authorize, But Not Direct, the Debtors, in Their Discretion, to Make Necessary Payments Under the Premium Financing Agreements and Renew, Modify or Supplement the Premium Financing Agreements and/or Enter into New Premium Financing Agreement(s) in the Ordinary Course of Business.

37. If the Debtors were unable to continue honoring their obligations under the Premium Financing Agreement, Premium Financer may seek relief from the automatic stay to terminate the Financed Policies to recoup their losses. The Debtors could then be required to

obtain replacement insurance on an expedited basis and likely at a significant cost to their estates. The Debtors would likely face great hardship if they were required to obtain replacement insurance and pay a lump-sum premium for the Financed Policies in advance. Even if the Financed Policies were not terminated, any interruption in the Debtors' payments could have a severe, adverse effect on the Debtors' ability to finance premiums for future policies and programs.

38. The Court may also authorize the Debtors to enter into new Premium Financing Agreement(s) pursuant to section 364(c)(2) of the Bankruptcy Code. Section 364(c)(2) authorizes, after notice and a hearing, a debtor in possession to obtain debt secured by a lien on property of the estate. *See* 11 U.S.C. § 364(c)(2). Under any new Premium Financing Agreement, the counterparty likely would require that the Debtors grant a security interest in the unearned premiums under the financed policies.

39. Section 364(c) authorizes a debtor, in the exercise of its business judgment, to incur secured debt if the debtor has been unable to obtain unsecured credit and the borrowing is in the best interests of the estates. *See In re Budget Grp., Inc.*, 2002 Bankr. LEXIS 1050 (Bankr. D. Del. Aug. 1, 2002) (authorizing funding of acquisition of property on a secured basis where acquired property was necessary to maintain operations and debtor could not obtain such funding on an unsecured basis). Because a borrowing to maintain essential insurance coverage is in the best interests of the Debtors' estates, the Debtors submit that the Court should authorize them to execute new Premium Financing Agreements postpetition, as necessary, in the ordinary course of business.

C. The Automatic Stay Should be Modified for Workers' Compensation Claims.

40. The maintenance of the Workers' Compensation Program is likewise justified because applicable state law mandates this coverage, and 28 U.S.C. § 959(b) requires the Debtors

to comply with valid state laws. In addition, the Debtors employ approximately 2,800 employees, some of whom depend on the protection that the Workers' Compensation Program provides.

41. Section 362(a)(1) of the Bankruptcy Code operates to stay “the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title[.]” 11 U.S.C. § 362(a)(1). Section 362(d)(1), however, permits a debtor or other party in interest to request a modification or termination of the automatic stay for “cause.” 11 U.S.C. § 362(d)(1).

42. Pursuant to section 362(d) of the Bankruptcy Code, the Debtors seek authority to modify the automatic stay to permit employees who hold Workers' Compensation Claims to proceed with such claims in the appropriate judicial or administrative forum.

43. There is cause to modify the automatic stay because staying the Workers' Compensation Claims could result in employee departures or otherwise harm employee morale at a time when the Debtors need their workforce to be operating at peak efficiency. Unnecessary distractions—or worse, heavy attrition—could jeopardize the Debtors' chapter 11 strategy and result in irreversible harm to the Debtors' businesses. Accordingly, the Debtors respectfully request that the Court modify the automatic stay as it relates to valid Workers' Compensation Claims to allow employees holding any such claims to pursue resolution and collection.

D. Cause Exists to Authorize the Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers.

44. The Debtors further request that all applicable banks and other financial institutions be authorized when requested by the Debtors and in the Debtors' sole discretion, without any duty

of inquiry or liability to any party for following the Debtors' instructions, to receive, process, honor, and pay any and all checks drawn on the Debtors' accounts to pay amounts owed under the Insurance Policies, whether those checks are presented prior to or after the Petition Date, and make other transfers, provided that sufficient funds are available in the applicable accounts to make the payments.

EMERGENCY CONSIDERATION

45. The Debtors respectfully request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first twenty-one (21) days after the commencement of a chapter 11 case "to the extent that relief is necessary to avoid immediate and irreparable harm." Here, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first twenty-one (21) days of these chapter 11 cases would severely disrupt the Debtors' operations at this critical juncture. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

WAIVER OF ANY APPLICABLE STAY

46. The Debtors seek a waiver of any stay of the effectiveness of the order granting this Motion. Pursuant to Bankruptcy Rule 6004(h), any "order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Debtors submit that the relief requested in this Motion is

necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent applicable.

RESERVATION OF RIGHTS

47. Nothing contained herein is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors or any liens satisfied pursuant to this Motion; (ii) an agreement or obligation to pay any claims; (iii) a waiver of any claims or causes of action that may exist against any creditor or interest holder; (iv) a waiver of the Debtors' or any appropriate party in interest's right to dispute any claim; or (v) an approval, assumption, or rejection of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' right to dispute such claim subsequently.

NOTICE

48. The Debtors have provided notice of this motion to: (a) the Office of the United States Trustee for the Northern District of Georgia; (b) the Debtors' thirty (30) largest unsecured creditors; (c) counsel to the Debtors' prepetition lenders; (d) counsel to the Debtors' debtor-in-possession lender; (e) the Internal Revenue Service; (f) the Georgia Department of Revenue; (g) the Attorney General for the State of Georgia; (h) the United States Attorney for the Northern District of Georgia; (i) the state attorneys general for states in which the Debtors conduct business; (j) the Insurance Carriers; (k) the Insurance Brokers; and (l) any party that has requested notice

pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

NO PRIOR REQUEST

49. No prior request for the relief sought in this Motion has been made to this or any other court.

CONCLUSION

WHEREFORE, the Debtors request this Court enter an order, substantially in the form of **Exhibit B**, granting the relief requested herein and such other and further relief as the Court may deem just and proper.

[Remainder of Page Intentionally Blank]

Date: March 5, 2025
Atlanta, Georgia

Respectfully submitted,

KING & SPALDING LLP

/s/ Jeffrey R. Dutson

Jeffrey R. Dutson

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*Proposed Counsel for the Debtors in
Possession*

Exhibit A

Insurance Policies

Legal Entity	Type of Policy Coverage	Insurance Carrier	Policy Number	Policy Term	Approximate Annualized Gross Premium	Covered by a Premium Financing Agreement?	Outstanding payments
OTB Acquisition LLC	TX Non-Subscriber	Zurich American Insurance Company	NSL1138503-01	12/1/2024 - 12/1/2025	\$ 29,462	Yes	9
OTB Acquisition LLC	Workers' Compensation	Starr Indemnity & Liability Company	1000005416	12/1/2024 - 12/1/2025	\$ 55,908	Yes	9
OTB Acquisition LLC	Workers' Compensation	Starr Indemnity & Liability Company	1000005417	12/1/2024 - 12/1/2025	\$ 97,950	Yes	9
OTB Acquisition LLC	Workers' Compensation	Starr Indemnity & Liability Company	1000005418	12/1/2024 - 12/1/2025	\$ 11,390	Yes	9
OTB Acquisition LLC	General Liability	Starr Indemnity & Liability Company	1000100236241	12/1/2024 - 12/1/2025	\$ 593,014	Yes	9
OTB Acquisition LLC	Liquor Liability	Starr Indemnity & Liability Company	1000302546241	6/30/2024 - 6/30/2025	\$ 1,530	No	0
OTB Acquisition LLC	Automobile	Starr Indemnity & Liability Company	1000692549241	12/1/2024 - 12/1/2025	\$ 193,073	Yes	9
OTB Acquisition LLC	Automobile	Starr Indemnity & Liability Company	1000692548241	12/1/2024 - 12/1/2025	\$ 3,461	Yes	9
OTB Acquisition LLC	Foreign Liability	Hartford Fire Insurance Company	46CPGIQ3908	12/1/2024 - 12/1/2025	\$ 2,000	Yes	9
OTB Acquisition LLC	Umbrella	Markel American Insurance Company	MKLM6MM70001048	12/1/2024 - 12/1/2025	\$ 171,400	Yes	9
OTB Acquisition LLC	Excess	Aspen American Insurance Company	CX00H8624	12/1/2024 - 12/1/2025	\$ 50,000	Yes	9
OTB Acquisition LLC	Excess	Homesite Insurance Company of Florida	CXS-041137-00	12/1/2024 - 12/1/2025	\$ 53,494	Yes	9
OTB Acquisition LLC	Property	Zurich American Insurance Company	MLP0173564-10	12/1/2024 - 12/1/2025	\$ 553,594	Yes	9
OTB Acquisition LLC	Restaurant Recovery	U.S. Specialty Insurance Company	U724-860738	12/1/2024 - 12/1/2025	\$ 48,262	Yes	9
OTB Acquisition LLC	Crime	Hanover Insurance Company	BDY-1043253-12	12/1/2024 - 12/1/2025	\$ 18,185	Yes	9
OTB Acquisition LLC	Special Crime	Hiscox Insurance Company	UKA302417.24	12/1/2024 - 12/1/2025	\$ 7,374	Yes	9
OTB Acquisition LLC	Cyber	Coalition Insurance Solutions, Inc.	C-4LRK-046193-CYBER-2024	12/1/2024 - 12/1/2025	\$ 69,995	Yes	9
OTB Acquisition LLC	D&O/EPL/Fiduciary	Westchester Surplus Lines Insurance Co	G25106945 011	12/1/2024 - 12/1/2025	\$ 83,602	Yes	9
OTB Acquisition LLC	Flood - Building	Hartford Ins. Co. of the Midwest	8705530078	1/2/2025 - 1/2/2026	\$ 931	No	0
OTB Acquisition LLC	Flood - Contents	Hartford Ins. Co. of the Midwest	8705530160	1/15/2025 - 1/15/2026	\$ 973	No	0
OTB Acquisition LLC	Workers' Compensation	The Travelers Indemnity Company	TC2JUB-9367B81-3-18 TRKUB-9367B82-5-18 UB-0M775062-19-51-K UB-9M787350-19-51-R UB-9M775062-20-51-K UB-9M787350-20-51-R UB-9M775062-21-51-K UB-9M787350-21-51-R UB-9M775062-22-51-K UB-9M787350-22-51-R	2017 - 6/30/2023	N/A	N/A	N/A

Exhibit B

Surety Bonds

PRINCIPAL	BOND NO.	PROVIDER	NATURE OF BOND	EXPIRATION	BOND AMOUNT	PREMIUM AMOUNT
OTB Acquisition of Kansas, LLC	105605177	Travelers Casualty and Surety Company of America	Liquor Drink Tax Surety Bond - premises located at 1235 Wannamaker Rd, Topeka, KS	5/10/2025	\$10,000	\$120
OTB Acquisition of Kansas, LLC	105605178	Travelers Casualty and Surety Company of America	Liquor Drink Tax Surety Bond - premises located at 2347 N. Maize Road, Wichita, KS	5/10/2025	\$15,000	\$180
OTB Acquisition of Kansas, LLC	105605179	Travelers Casualty and Surety Company of America	Liquor Drink Tax Surety Bond - premises located at 1930 N. Rock Road, Wichita, KS	5/10/2025	\$10,000	\$120
OTB Acquisition LLC	105360381	Travelers Casualty and Surety Company of America	Liquor Beverage Surety Bond - 6572 Airways Blvd., Southaven, MS 38671	5/18/2025	\$5,000	\$100
OTB Acquisition LLC	105360392	Travelers Casualty and Surety Company of America	Liquor Tax Bond - Alcoholic Beverage License Bond	5/27/2025	\$18,800	\$226
OTB Acquisition LLC	108154231	Travelers Casualty and Surety Company of America	State of Texas Sales Tax Bond	2/14/2026	\$100,000	\$1,200

Exhibit C

Proposed Order

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	Chapter 11
)	
OTB HOLDING LLC, <i>et al.</i> , ¹)	Case No. 25-52415 (SMS)
)	
)	
Debtors.)	(Jointly Administered)
)	

**ORDER (I) AUTHORIZING THE DEBTORS TO CONTINUE PREPETITION
INSURANCE AND WORKERS' COMPENSATION POLICIES AND TO PAY
PREPETITION PREMIUMS AND RELATED OBLIGATIONS AND
(II) GRANTING RELATED RELIEF**

This matter is before the Court on the *Emergency Motion for Entry of an Order (I) Authorizing the Debtors to Continue Prepetition Insurance and Workers' Compensation Policies and to Pay Prepetition Premiums and Related Obligations and (II) Granting Related Relief* (the "Motion") [Docket No. ____] of the above-captioned debtors and debtors in possession (collectively,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: OTB Holding LLC (3213), OTB Acquisition LLC (8500), OTB Acquisition of New Jersey LLC (1506), OTB Acquisition of Howard County LLC (9865), Mt. Laurel Restaurant Operations LLC (5100), OTB Acquisition of Kansas LLC (9014), OTB Acquisition of Baltimore County, LLC (6963). OTB Holding LLC's service address is One Buckhead Plaza, 3060 Peachtree Road, NW, Atlanta, GA 30305.

the “Debtors”). All capitalized terms used but not defined herein shall have the meanings given them in the Motion.

The Court has considered the Motion, the First Day Declaration, and the matters reflected in the record of the hearing held on the Motion on _____, 2025. It appears that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §1408; and it appearing that the relief requested is in the best interests of the Debtors’ estates, their creditors, and other parties in interest, and that good cause has been shown therefor; IT IS HEREBY ORDERED:

1. The Motion is granted to the extent set forth herein.
2. The Debtors are authorized, but not directed, to maintain the Insurance Policies identified on **Exhibit A** to the Motion in the ordinary course of business, and to pay, in the ordinary course of business any prepetition or postpetition Insurance Obligations related to the Insurance Policies as they become due, including Brokerage Fees, insurance deductibles, and any other amounts related thereto.
3. The Debtors are authorized, but not directed, to maintain the Surety Bonds identified on **Exhibit B** to the Motion, and to pay, in the ordinary course of business as such obligations become due, all Surety Obligations (including amounts owed to the Surety) arising under or relating to the Surety Bond Program, and any other amounts related thereto.
4. The Debtors are authorized, but not directed, to renew, amend, supplement, extend, modify, rollover, replace, or obtain new Surety Bonds, and to take all appropriate actions in

connection therewith, in the ordinary course of business to the extent that the Debtors determine that such action is in the best interest of their estates.

5. The Debtors are authorized, but not directed, to renew, amend, supplement, extend, modify, rollover, replace, or obtain new Insurance Policies, and to take all appropriate actions in connection therewith, in the ordinary course of business to the extent that the Debtors determine that such action is in the best interest of their estates.

6. The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Surety Bond Program in accordance with practices and procedures that were in effect before the commencement of these chapter 11 cases, including, without limitation renew, modify, supplement or acquire additional bonding capacity as needed in the ordinary course of business, request releases from obsolete bonding obligations, and execute other agreements in connection with the Surety Bond Program.

7. The Debtors are authorized, but not directed, to honor the current Letters of Credit and renew, replace, modify, extend, or add to the Letters of Credit as needed postpetition, including through the issuance of new letters of credit or the posting of cash collateral.

8. Pursuant to Bankruptcy Code section 362(d), Employees are authorized to proceed with their claims under the Workers' Compensation Programs in the appropriate judicial or administrative forum, and the Debtors are authorized, but not directed, to (i) continue the Workers' Compensation Programs, (ii) pay all prepetition Workers' Compensation Claims and State Workers' Compensation Payments and (iii) continue to fund the Loss Fund Accounts in the ordinary course of business. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Programs.

9. The Debtors are authorized to honor their obligations under the Premium Financing Agreement without interruption and in accordance with the same practices and procedures as were in effect prior to the commencement of the Debtors' chapter 11 cases to the extent that the Debtors determine such action is in the best interest of their estates.

10. The Debtors are authorized to enter into new premium financing agreements in the ordinary course of business and in accordance with the same practices and procedures as were in effect prior to the commencement of the Debtors' chapter 11 cases to the extent that the Debtors determine such action is in the best interest of their estates.

11. The Debtors are authorized, but not required, to pay all amounts necessary to maintain the Insurance Policies.

12. Subject to the availability of funds, the Debtors' banks and financial institutions (collectively, the "Banks") are authorized to process, honor, and pay any and all checks or electronic transfers issued in connection with the Insurance Policies.

13. Banks that process, honor, and pay any and all checks or electronic transfers on account of the Insurance Policies may rely on the representations of the Debtors as to which checks or electronic transfers are issued and authorized to be paid in accordance with this Order without any duty of further inquiry and without liability for following the Debtors' instructions.

14. Payments made pursuant to the authority granted in this Order shall not be deemed to constitute the postpetition assumption of any executory contract pursuant to Bankruptcy Code section 365.

15. Nothing in this Order shall affect the Debtors' rights to contest the amount or validity of any amounts under any of the Insurance Policies or Surety Bond Program.

16. Notwithstanding the relief granted herein or any actions taken pursuant to such relief, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute: (a) an admission as to the validity or priority of any claim or lien (or the priority thereof) against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to subsequently dispute and/or contest such claim or lien on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume or adopt any agreement, contract or lease under section 365 of the Bankruptcy Code; (f) creation of rights in favor of, or enhancement of the status of any claim held by, any of the Debtors' insurance providers or any third party; or (g) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or applicable law.

17. Notwithstanding anything to the contrary contained herein, (i) any payment made or to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved postpetition financing facility or any order regarding the use of cash collateral approved by the Court in these chapter 11 cases, including, without limitation, the *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting (A) Liens and Superpriority Administrative Expense Claims and (B) Adequate Protection; (III) Authorizing Use of Cash Collateral; (IV) Modifying the Automatic Stay; (V) Scheduling a Final Hearing; and Granting Related Relief* (the "DIP Order"), and (ii) to the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the DIP Order and the Budget (as defined in the DIP Order) shall control. For the

avoidance of doubt, the Debtors are not authorized to make payments pursuant to this Order except as permitted by the Budget.

18. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective immediately upon its entry.

19. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a), the Bankruptcy Local Rules for the Northern District of Georgia and the Complex Case Procedures are satisfied by such notice.

20. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

21. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

22. Proposed counsel for the Debtors, through Kurtzman Carson Consultants, LLC d/b/a Verita Global (“Verita”) shall, within three (3) days of the entry of this Order, cause a copy of this Order to be served by electronic mail or first class mail, as applicable, on all parties served with the Motion, and Verita shall file promptly thereafter a certificate of service confirming such service.

[END OF ORDER]

Prepared and presented by:

/s/ Jeffrey R. Dutson

Jeffrey R. Dutson

Georgia Bar No. 637106

Brooke L. Bean

Georgia Bar No. 764552

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