

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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

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**DEBTORS' EMERGENCY MOTION FOR ENTRY OF INTERIM  
AND FINAL ORDERS (I) AUTHORIZING (A) THE DEBTORS TO PAY  
CERTAIN PREPETITION CLAIMS OF TRADE CLAIMANTS AND  
(B) PROCEDURES RELATED THERETO, AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) file this *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing (A) the Debtors to Pay Certain Prepetition Claims of Trade Claimants and (B) Procedures Related Thereto, and (II) Granting Related Relief* (this “Motion”). In support of this Motion, the Debtors respectfully request 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).

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<sup>1</sup> 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.



2. The bases for the relief requested herein are sections 105(a), 363(b), 503(b)(9), 1107(a) and 1108 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of 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”), 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 (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 detail 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.<sup>2</sup>

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

**RELIEF REQUESTED**

5. By this Motion, the Debtors request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the “Interim Order” and the “Final Order,” respectively), (a) authorizing, but not directing, the Debtors to pay certain prepetition claims of critical vendors (collectively, the “Critical Vendors” whose claims shall be identified herein collectively as the “Critical Vendor Claims”) in an amount not to exceed \$2,000,000 on an interim basis (the “Interim Critical Vendor Claims Cap”) and \$2,661,000 on a final basis (the “Final Critical Vendor Claims Cap”) and (b) granting related relief.

**CRITICAL VENDOR CLAIMS**

6. In order to operate their businesses, the Debtors depend on select Critical Vendors who can supply the necessary quality and type of goods and services in a timely fashion to enable the Debtors to provide top quality services to their customer base. Any interruption in the provision of goods or services by the Critical Vendors—however brief—would disrupt the Debtors’ operations and could cause irreparable harm to the Debtors’ businesses, goodwill, employees, customer base, and market share.

7. The Debtors have thoroughly reviewed their business relationships and identified the Critical Vendors, the loss of whose particular goods or services would cause immediate and irreparable harm to the Debtors’ businesses. The Debtors also reviewed their accounts payable and prepetition vendor lists to identify the Critical Vendors using the following criteria: (a) which vendors were sole source or limited source suppliers, without whom the Debtors could not continue to operate without disruption; (b) the Debtors’ ability to find alternative sources of services and the potential disruption or lost revenues while a new supplier or service provider was resourced;

(c) which suppliers or vendors would be prohibitively expensive to replace; (d) which suppliers or vendors would present an unacceptable risk to the Debtors' operations given the volume of essential services or products that such suppliers provide; and (e) whether a vendor meeting the foregoing criteria is able or likely to refuse to ship product to or perform services for the Debtors postpetition if its prepetition balances are not paid, considering, for example, whether the particular vendor is under a contractual obligation to perform.

8. The Debtors use a variety of vendors to provide food, marketing services, source and provide alcohol and other materials essential to operating the Debtors' business. In many instances, these Critical Vendors are the only vendors able to provide the services and goods required to meet the Debtors' operational needs without substantial delay as a result of the Debtors' historical reliance on these Critical Vendors. Anticipating this situation, the Debtors, with the assistance of their advisors, spent significant time prior to the Petition Date reviewing and analyzing their books and records, open accounts payable systems and prepetition vendor lists to identify those vendors and suppliers that are in fact critical to the Debtors' operations, the loss of which could materially harm the Debtors' businesses or impair going-concern viability. These Critical Vendors have a detailed understanding of the Debtors' operations and products. Even if it were commercially practicable to replace and retrain new service providers, the efforts expended to locate and replace the current Critical Vendors and the time required to do so would detract from the goals of these Chapter 11 Cases, reducing recoveries for the Debtors, their creditors and all parties in interest. Any loss of these Critical Vendors during the time following the commencement of the Chapter 11 Cases will impair the Debtors' effort to preserve and maximize the value of their estates. Accordingly, to preserve the value of the Debtors' estates as a going

concern through the Debtors' sale process, the Debtors must have the ability to assuage the concerns of the Critical Vendors by funding them without interruption.

9. If the Critical Vendors are not paid, their resulting unwillingness to continue to provide products or services even for a short period of time would cause an interruption of the Debtors' operations. Such an interruption would cause the Debtors irreparable harm, which would jeopardize the Debtors' restructuring efforts. Relatedly, paying the Critical Vendors would permit the Debtors to maintain the value of the businesses and maximize value for the benefit of their creditors and stakeholders. Therefore, the Debtors seek authorization to pay Critical Vendor Claims to ensure the Debtors' continued receipt of goods and services and favorable credit terms from the Critical Vendors.

10. The Debtors estimate that, as of the Petition Date, the aggregate amount of the Critical Vendor Claims is approximately \$2,661,000 of which \$2,000,000 will be due and owing within twenty-one (21) days after the Petition Date.

#### **CUSTOMARY TRADE TERMS**

11. In return for paying the claims of the Critical Vendors, the Debtors will seek to require the applicable Critical Vendor to provide favorable trade terms in line with historical practice for the go-forward delivery of goods and services. The Debtors therefore request authority to condition payment upon such party's written agreement to continue supplying goods or services to the Debtors in accordance with trade terms at least as favorable to the Debtors as those practices and programs (including credit limits, pricing, timing of payments, availability, and other terms) in place prior to the Petition Date (collectively, the "Customary Trade Terms").

12. To the extent that the Debtors determine, in their business judgment, to condition the payment of a Critical Vendor Claim on the agreement of the applicable Critical Vendor to continue supplying goods and/or services to the Debtors on the Customary Trade Terms, the Debtors propose that a letter (a “Vendor Letter”) be sent to the Critical Vendor, along with a copy of any order granting this Motion (the “Vendor Order”), including, without limitation, the following terms:

- a. The amount of the Critical Vendor’s estimated prepetition claim, after accounting for any setoffs, other credits and discounts thereto, shall be as mutually determined in good faith by the Critical Vendor and the Debtors (but such amount shall be used only for purposes of the Vendor Order and shall not be deemed a claim allowed by the Court, and the rights of all parties in interest to object to such claim shall be fully preserved until further order of the Court);
- b. The amount and timing of any payment agreed to be paid in satisfaction of such estimated prepetition claim by the Debtors, subject to the terms and conditions as set forth in the Vendor Order;
- c. The Critical Vendor’s agreement to provide goods and services to the Debtors based upon the Customary Trade Terms (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, normal product mix and availability and other applicable terms and programs), or such other trade terms as are agreed to by the Debtors and the Critical Vendor, and the Debtors’ agreement to pay the Critical Vendor in accordance with such terms;
- d. The Critical Vendor’s agreement not to file or otherwise assert against any of the Debtors, their estates or any of their respective assets or property (real or personal) any lien (a “Lien”) (regardless of the statute or other legal authority upon which such Lien is asserted) related in any way to any remaining prepetition amounts allegedly owed to the Critical Vendor by the Debtors arising from goods and services provided to the Debtors prior to the Petition Date, and that, to the extent that the Critical Vendor has previously obtained such a Lien, the Critical Vendor shall immediately take all necessary actions to release such Lien;
- e. The Critical Vendor’s acknowledgment that it has reviewed the terms and provisions of the Vendor Letter and consents to be bound thereby;

- f. The Critical Vendor's agreement that it will not separately assert or otherwise seek payment of any reclamation claims; and
- g. If a Critical Vendor that has received payment of a prepetition claim subsequently refuses to provide goods and/or services to the Debtors on Customary Trade Terms or such other trade terms as are agreed to by the Debtors and the Critical Vendor, then, without the need for any further order of the Court, any payments received by the Critical Vendor on account of such prepetition claim shall be deemed to have been in payment of any then outstanding postpetition obligations owed to such Critical Vendor, and such Critical Vendor shall immediately repay to the Debtors any payments received on account of its prepetition claim to the extent that the aggregate amount of such payments exceed the postpetition obligations then outstanding to such Critical Vendor, without the right of setoff, recoupment or reclamation, and the Critical Vendor's prepetition claim shall be reinstated as a prepetition claim in these chapter 11 cases and subject to the terms of any bar date order entered in these chapter 11 cases.

13. Any such Vendor Letter, once agreed to by the Debtors and a Critical Vendor, shall be the agreement between the parties that governs their post-petition trade relationship (the "Trade Agreement"). The Debtors request that they be authorized, but not required, in their discretion, to enter into Trade Agreements with the Critical Vendors to the extent that the Debtors determine that such agreements are appropriate under the circumstances of their business relationship with such Critical Vendor.

14. If a Critical Vendor fails to comply with any Trade Agreement, or, in the event that a Trade Agreement is terminated, the Debtors reserve all rights to recover sums paid in excess of post-petition obligations owing to the particular vendor.

#### **BASIS FOR RELIEF**

##### **A. Payment of the Critical Vendor Claims is Warranted Under Section 363(b)(1) of the Bankruptcy Code and the Doctrine of Necessity**

15. Courts have authorized payment of prepetition obligations under section 363(b) of the Bankruptcy Code where a sound business purpose exists for doing so. *See 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); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (granting authority to pay prepetition claims to certain vendors).

16. Further, the Court may authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code, which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to “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). Under section 105(a) of the Bankruptcy Code, courts may permit preplan payments of prepetition obligations when essential to the continued operation of a debtor’s business. Specifically, the Court may use its power under section 105(a) of the Bankruptcy Code to authorize payment of prepetition obligations pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”).

17. The “doctrine of necessity” or the “necessity of payment” rule has been recognized by bankruptcy courts across the country as critical to the rehabilitation of a debtor in reorganization cases. *See Ionosphere*, 98 B.R. at 175–76. Today, the rationale for the necessity of payment rule—the rehabilitation of a debtor in reorganization cases—is “the paramount policy and goal of Chapter 11.” *Id.*; *see also In re Just For Feet*, 242 B.R. 821, 824–25 (D. Del. 1999) (finding that payment of prepetition claims to certain trade vendors was “essential to the survival of the debtor during the chapter 11 reorganization”); *In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) (“[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of



reorganization is generally prohibited by the Bankruptcy Code,” but “[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment.”); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (approving payment of prepetition unsecured claims of tool makers as “necessary to avert a serious threat to the Chapter 11 process”); *Burchinal v. Cent. Wash. Bank (In re Adams Apple, Inc.)*, 829 F.2d 1484, 1490 (9th Cir. 1987) (recognizing that allowance of “unequal treatment of pre-petition debts when necessary for rehabilitation” is appropriate); *Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 287 (S.D.N.Y. 1987) (authorizing payment of prepetition worker’s compensation claims on grounds that the fundamental purpose of reorganization and equity powers of bankruptcy courts “is to create a flexible mechanism that will permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately”); 2 COLLIER ON BANKRUPTCY, ¶ 105.02[4][a] (16th ed. rev. 2015) (discussing cases in which courts have relied on the “doctrine of necessity” or the “necessity of payment” rule to pay prepetition claims immediately).

18. Additionally, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries “holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners.” *CoServ*, 273 B.R. at 497. Implicit in the fiduciary duties of any debtor in possession is the obligation to “protect and preserve the estate, including an operating business’s going-concern value.” *Id.* Some courts have noted that there are instances in which a debtor can fulfill this fiduciary duty “only . . . by the pre-plan satisfaction of a prepetition claim.” *Id.* The court in *CoServ* specifically

noted the pre-plan satisfaction of prepetition claims would be a valid exercise of the debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate . . . ." *Id.*

19. Consistent with a debtor's fiduciary duties, courts have also authorized payment of prepetition obligations under section 363(b) of the Bankruptcy Code where a sound business purpose exists for doing so. *See Ionosphere*, 98 B.R. at 175 (finding that a sound business justification existed to justify payment of prepetition wages); *Armstrong*, 29 B.R. at 397–98 (relying on section 363 of the Bankruptcy Code to allow contractor to pay prepetition claims of suppliers who were potential lien claimants because the payments were necessary for general contractors to release funds owed to debtors).

20. Courts have permitted postpetition payment of prepetition claims pursuant to section 105(a) in situations where nonpayment of a prepetition obligation would trigger a withholding of services essential to the debtors' business reorganization plan. *See In re UNR Indus., Inc.*, 143 B.R. 506, 520 (Bankr. N.D. Ill. 1992) (permitting the debtor to pay prepetition claims of suppliers or employees whose continued cooperation is essential to the debtors' successful reorganization); *Ionosphere*, 98 B.R. at 177 (finding that section 105 empowers bankruptcy courts to authorize payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor).

21. This flexible approach is particularly critical where a prepetition creditor provides vital services to a debtor that would be unavailable if the debtor did not satisfy its prepetition obligations. In *In re Structurlite Plastics Corp.*, the bankruptcy court stated that "a bankruptcy court may exercise its equity powers under §105(a) [of the Bankruptcy Code] to authorize payment

of pre-petition 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.’” 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (citation omitted). The court explained that “a *per se* rule proscribing the payment of pre-petition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code.” *Id.* at 932.

22. As explained above, the goods and services provided by the Critical Vendors are essential to ensure that there is no disruption in the operation of the Debtors’ business. The Debtors submit that the total amount to be paid to the Critical Vendors is minimal compared to the importance and necessity of the Debtors’ uninterrupted receipt of the necessary goods and services provided by such vendors. Moreover, the Debtors do not believe there are cost-effective or readily accessible alternatives to the Critical Vendors.

23. Bankruptcy courts in this district and across the country frequently authorize the debtor to pay the claims of prepetition critical vendors and otherwise grant relief similar to that requested herein. *See, e.g., In re LaVie Care Centers, LLC, et al.*, Case No. 24-55507 (Bankr. N.D. Ga. June 27, 2024) [Docket No. 178]; *In re Peach State Rests., LLC*, Case No. 13-63081 (JRS) (Bankr. N.D. Ga. July 25, 2013) [Docket No. 44]; *In re Caraustar Indus., Inc.*, Case No. 09-73830 (MGD) (Bankr. N.D. Ga. June 4, 2009) [Docket No. 73]; *In re Blue Thunder Auto Transport, Inc.*, Case No. 07-61268 (PWB) (Bankr. N.D. Ga. Feb. 1, 2007) [Docket No. 32]; *In re Dan River Inc.*, Case No. 04-10990 (WHD) (Bankr. N.D. Ga. Apr. 12, 2004) [Docket No. 120]; *see also In re Hexion Holdings LLC*, Case No. 19-10684 (KG) (Bankr. D. Del. May 1, 2019) [Docket No. 293]; *In re Fuse, LLC*, Case No. 19-10872 (KG) (Bankr. D. Del. Apr. 24, 2019) [Docket No. 56]; *In re Windstream Holdings, Inc.*, Case No. 19-22312 (RDD) (Bankr. S.D.N.Y.

Apr. 22, 2019) [Docket No. 377]; *In re Fuhu, Inc.*, Case No. 15-12465 (CSS) (Bankr. D. Del. Jan. 5, 2016) [Docket No. 217]; *In re Simply Wheelz LLC*, Case No. 13-03332 (EE) (Bankr. S.D. Miss. Nov. 7, 2013) [Docket No. 41]; *In re Titlemax Holdings, LLC*, Case No. 09-40805 (LWD) (Bankr. S.D. Ga. Aug. 14, 2009) [Docket No. 263].<sup>3</sup>

**PROCESSING OF CHECKS AND ELECTRONIC FUND TRANSFERS  
SHOULD BE AUTHORIZED**

24. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and debtor-in-possession financing. Also, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment made to obligations on account of Critical Vendor Claims. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that this Court should authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested herein.

**EMERGENCY CONSIDERATION**

25. 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

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<sup>3</sup> Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request to the Debtors' proposed counsel.

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**

26. 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**

27. 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**

28. Notice of this Motion has been provided 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; and (j) 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**

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

### **CONCLUSION**

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request entry of the Interim Order and Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

*[Remainder of page intentionally left 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**

**Proposed Interim Order**



UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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

**INTERIM ORDER (I) AUTHORIZING (A) THE DEBTORS TO PAY  
CERTAIN PREPETITION CLAIMS OF TRADE CLAIMANTS AND  
(B) PROCEDURES RELATED THERETO, AND (II) GRANTING RELATED RELIEF**

This matter is before the Court on the *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing (A) the Debtors to Pay Certain Prepetition Claims of Trade Claimants and (B) Procedures Related Thereto, and (II) Granting Related Relief* (the “Motion”) [Docket No. \_\_\_\_]

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<sup>1</sup> 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.

of the above-captioned debtors and debtors in possession (collectively, the “Debtors”). All capitalized terms used but not defined herein shall have the meanings given to 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, 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 on an interim basis as set forth herein.
2. The final hearing on the Motion shall be held on \_\_\_\_\_, 2025, at \_\_:\_\_ .m., prevailing Eastern Time. Any objection to entry of the Final Order attached as **Exhibit B** to the Motion must be filed with the Court and served on the following parties: (i) counsel to the Debtors, King & Spalding LLP, 1180 Peachtree Street NE, Suite 1600, Atlanta, Georgia 30309, Attn: Jeffrey R. Dutson ([jdutson@kslaw.com](mailto:jdutson@kslaw.com)) and Brooke L. Bean ([bbean@kslaw.com](mailto:bbean@kslaw.com)); (ii) the Office of the United States Trustee for the Northern District of Georgia; and (iii) any party that has requested notice pursuant to Bankruptcy Rule 2002, in each case to allow actual receipt by no later than 4:00 p.m. (prevailing Eastern time) on \_\_\_\_\_, 2025.
3. The Debtors are authorized, but not directed, to pay the Critical Vendor Claims subject to the Interim Critical Vendor Claims Cap.

4. The Debtors are authorized, but not directed, in their discretion, to condition the payment of a Critical Vendor Claims on the agreement of the applicable Critical Vendor to continue supplying goods and services to the Debtors on the Customary Trade Terms, or such other trade terms as are agreed to by the Debtors and the applicable Critical Vendor.

5. The Debtors are authorized, but not directed, in their discretion, to enter into Trade Agreements with Critical Vendors, including, without limitation, on the following terms:

- a. The amount of the Critical Vendor's estimated prepetition claim, after accounting for any setoffs, other credits and discounts thereto, shall be as mutually determined in good faith by the Critical Vendor and the Debtors (but such amount shall be used only for purposes of this Interim Order and shall not be deemed a claim allowed by this Court, and the rights of all parties in interest to object to such claim shall be fully preserved until further order of this Court);
- b. The amount and timing of any payment agreed to be paid in satisfaction of such estimated prepetition claim by the Debtors, subject to the terms and conditions as set forth in this Interim Order;
- c. The Critical Vendor's agreement to provide goods and services to the Debtors based upon the Customary Trade Terms (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, normal product mix and availability and other applicable terms and programs), or such other trade terms as are agreed to by the Debtors and the Critical Vendor, and the Debtors' agreement to pay the Critical Vendor in accordance with such terms;
- d. The Critical Vendor's agreement not to file or otherwise assert against any of the Debtors, their estates or any of their respective assets or property (real or personal) any lien (a "Lien") (regardless of the statute or other legal authority upon which such Lien is asserted) related in any way to any remaining prepetition amounts allegedly owed to the Critical Vendor by the Debtors arising from goods and services provided to the Debtors prior to the Petition Date, and that, to the extent that the Critical Vendor has previously obtained such a Lien, the Critical Vendor shall immediately take all necessary actions to release such Lien;
- e. The Critical Vendor's acknowledgment that it has reviewed the terms and provisions of this Interim Order and consents to be bound thereby;
- f. The Critical Vendor's agreement that it will not separately assert or otherwise seek payment of any reclamation claims; and

- g. If a Critical Vendor which has received payment of a prepetition claim subsequently refuses to provide goods and services to the Debtors on Customary Trade Terms or such other trade terms as are agreed to by the Debtors and the Critical Vendor, then, without the need for any further order of this Court, any payments received by the Critical Vendor on account of such prepetition claim shall be deemed to have been in payment of any then outstanding postpetition obligations owed to such Critical Vendor, and such Critical Vendor shall immediately repay to the Debtors any payments received on account of its prepetition claim to the extent that the aggregate amount of such payments exceed the postpetition obligations then outstanding to such Critical Vendor, without the right of setoff, recoupment or reclamation, and the Critical Vendor's prepetition claim shall be reinstated as a prepetition claim in these chapter 11 cases and subject to the terms of any bar date order entered in these chapter 11 cases.

6. If a Critical Vendor that has received payment of a prepetition claim later refuses to continue to supply goods or services for the applicable period in compliance with this Order, including providing goods and services on the same Customary Trade Terms on a postpetition basis, then the Debtors may declare such payments to have been unauthorized postpetition transfers under Bankruptcy Code section 549, and may take any and all appropriate steps to cause such Critical Vendor to repay payments made to it on account of this Order, or apply such payments as credits against any outstanding postpetition claim held by such Critical Vendor. Upon recovery of a payment made in respect to a Critical Vendor Claim, such claim shall be reinstated as a claim in the amount so recovered, less the Debtors' reasonable costs of recovery.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Critical Vendor Claims.

9. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, (a) an admission as to the validity or priority of any claim or lien 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, (c) the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code or (d) a grant of third-party beneficiary status or bestowal of any additional rights on any third party.

10. 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.

11. 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.

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

13. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

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

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

16. 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 Interim Order, cause a copy of this Interim 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

Alice Kyung Won Song

Georgia Bar No. 692753

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*Proposed Counsel for the Debtors in Possession*

**Exhibit B**

**Proposed Final Order**



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

In re:	)	Chapter 11
	)	
OTB HOLDING LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 25-52415 (SMS)
	)	
	)	
Debtors.	)	(Joint Administration Requested)
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**FINAL ORDER (I) AUTHORIZING (A) THE DEBTORS TO PAY CERTAIN  
PREPETITION CLAIMS OF TRADE CLAIMANTS AND  
(B) PROCEDURES RELATED THERETO, AND (II) GRANTING RELATED RELIEF**

This matter is before the Court on the *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing (A) the Debtors to Pay Certain Prepetition Claims of Trade Claimants and (B) Procedures Related Thereto, and (II) Granting Related Relief* (the “Motion”) [Docket No. \_\_\_\_] of the above-captioned debtors and debtors in possession (collectively, the “Debtors”). All

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<sup>1</sup> 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.

capitalized terms used but not defined herein shall have the meanings given to them in the Motion.

On \_\_\_\_\_, 2025 the Court granted the Motion on an interim basis and scheduled a Final Hearing for \_\_\_\_\_, 2025.

The Court has considered the Motion, the First Day Declaration, and the matters reflected in the record of the hearings held on the Motion on \_\_\_\_\_, 2025 and \_\_\_\_\_, 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, 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 on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, to pay the Critical Vendor Claims subject to the Final Critical Vendor Claims Cap.
3. The Debtors are authorized, but not directed, in their discretion, to condition the payment of a Critical Vendor Claims on the agreement of the applicable Critical Vendor to continue supplying goods and services to the Debtors on the Customary Trade Terms, or such other trade terms as are agreed to by the Debtors and the applicable Critical Vendor.
4. The Debtors are authorized, but not directed, in their discretion, to enter into Trade Agreements with Critical Vendors, including, without limitation, on the following terms:
  - a. The amount of the Critical Vendor's estimated prepetition claim, after accounting for any setoffs, other credits and discounts thereto, shall be as mutually determined in good faith by the Critical Vendor and the Debtors (but such amount shall be used only for purposes of this Final Order and shall not be deemed a claim allowed by

this Court, and the rights of all parties in interest to object to such claim shall be fully preserved until further order of this Court);

- b. The amount and timing of any payment agreed to be paid in satisfaction of such estimated prepetition claim by the Debtors, subject to the terms and conditions as set forth in this Final Order;
  - c. The Critical Vendor's agreement to provide goods and services to the Debtors based upon the Customary Trade Terms (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, normal product mix and availability and other applicable terms and programs), or such other trade terms as are agreed to by the Debtors and the Critical Vendor, and the Debtors' agreement to pay the Critical Vendor in accordance with such terms;
  - d. The Critical Vendor's agreement not to file or otherwise assert against any of the Debtors, their estates or any of their respective assets or property (real or personal) any lien (a "Lien") (regardless of the statute or other legal authority upon which such Lien is asserted) related in any way to any remaining prepetition amounts allegedly owed to the Critical Vendor by the Debtors arising from goods and services provided to the Debtors prior to the Petition Date, and that, to the extent that the Critical Vendor has previously obtained such a Lien, the Critical Vendor shall immediately take all necessary actions to release such Lien;
  - e. The Critical Vendor's acknowledgment that it has reviewed the terms and provisions of this Final Order and consents to be bound thereby;
  - f. The Critical Vendor's agreement that it will not separately assert or otherwise seek payment of any reclamation claims; and
5. If a Critical Vendor which has received payment of a prepetition claim subsequently refuses to provide goods and services to the Debtors on Customary Trade Terms or such other trade terms as are agreed to by the Debtors and the Critical Vendor, then, without the need for any further order of this Court, any payments received by the Critical Vendor on account of such prepetition claim shall be deemed to have been in payment of any then outstanding postpetition obligations owed to such Critical Vendor, and such Critical Vendor shall immediately repay to the Debtors any payments received on account of its prepetition claim to the extent that the aggregate amount of such payments exceed the postpetition obligations then outstanding to

such Critical Vendor, without the right of setoff, recoupment or reclamation, and the Critical Vendor's prepetition claim shall be reinstated as a prepetition claim in these chapter 11 cases and subject to the terms of any bar date order entered in these chapter 11 cases.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Critical Vendor Claims.

8. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Final Order or any payment made pursuant to this Final Order shall constitute, nor is it intended to constitute, (a) an admission as to the validity or priority of any claim or lien 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, (c) the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code or (d) a grant of third-party beneficiary status or bestowal of any additional rights on any third party.

9. 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.

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

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

12. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

13. 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.

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

15. 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 Final Order, cause a

copy of this Final 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

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Alice Kyung Won Song

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