

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.	)	(Jointly Administered)
_____	)	

**DEBTORS' MOTION FOR ORDER (I) APPROVING PROCEDURES FOR  
DE MINIMIS ASSET SALES AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) in these chapter 11 cases (the “Chapter 11 Cases”), by and through their proposed undersigned counsel file this *Debtors’ Motion for Order (I) Approving Procedures for De Minimis Asset Sales and (II) Granting Related Relief* (the “Motion”). In support of the Motion, the Debtors respectfully represent as follows:

**JURISDICTION AND VENUE**

1. This Court (as defined below) has jurisdiction to consider this Motion 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.



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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 to be 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 Petition Date 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. The Debtors have identified certain property that is obsolete, excessive, or burdensome, and the Debtors anticipate identifying additional property that is obsolete, excessive, or burdensome (the “De Minimis Assets”).

6. By this Motion, the Debtors respectfully request the entry of an order, pursuant to sections 105(a) and 363 of the Bankruptcy Code, substantially in the form attached hereto as **Exhibit A**, authorizing the Debtors to sell any De Minimis Assets with de minimis value, free and clear of liens, claims, interests, and encumbrances, subject to the procedures outlined below.

### **SALE PROCEDURES**

7. The Debtors request authority to, from time-to-time, sell De Minimis Assets for consideration not to exceed \$100,000 per transaction, free and clear of any and all claims, liens, interests, or encumbrances of any kind or nature whatsoever (collectively, “Liens”) on such assets.

8. If the consideration for a particular sale of De Minimis Assets does not exceed \$50,000, the Debtors seek authorization to consummate such sale without further notice to any party other than by filing a report of sale with this Court upon completion of the sale.

9. If the consideration for a particular sale of De Minimis Assets exceeds \$50,000 but is less than \$100,000, the Debtors seek authorization to consummate such sale pursuant to the following procedures (collectively, the “De Minimis Asset Sale Procedures”):

- a. The Debtors shall give written notice of the proposed sale (the “Sale Notice”) to: (i) the Office of the United States Trustee for the Northern District of Georgia (the “U.S. Trustee”); (ii) counsel for any statutory committee if appointed (each, an “Official Committee”); and (iii) counsel to the DIP Lender as follows: Porter Hedges LLP, 1000 Main Street., 36<sup>th</sup> Floor, Houston, TX 77002 (Attn: Joshua Wolfshohl (JWolfshohl@porterhedges.com) and Brian Rose (BRose@porterhedges.com)) (each, a “Notice Party” and collectively, the “Notice Parties”).

- b. The Sale Notice will be served on the Notice Parties *via* first class mail, overnight mail or email and shall specify (i) the identification of the De Minimis Assets being sold; (ii) the identities of the seller and the proposed purchaser; and (iii) the purchase price.
- c. If the terms of a proposed sale or transaction are materially amended after the transmittal of the Sale Notice, the Debtors will transmit an amended Sale Notice (an “Amended Sale Notice”) to the Notice Parties, after which the Notice Parties shall have an additional seven (7) calendar days to object to such sale or other disposition prior to closing such sale or effectuating such transaction; provided, that, for the avoidance of doubt, any change to the purchase price in connection with any sale or any change in retained liabilities of the Debtors in connection therewith shall be deemed material.
- d. The Notice Parties will have the right to object to any such proposed sale of De Minimis Assets by notifying the Debtors in writing of such objection without the need to file a formal objection with the Court (the “Objection Notice”), **not later than 5:00 p.m. (Prevailing Eastern Time) on the seventh (7th) calendar day after the date of service of the Sale Notice or Amended Sale Notice, as applicable**, by the Debtors (the “Notice Period”), *via* hand delivery, overnight mail or email to the proposed counsel for the Debtors, King & Spalding LLP, 1180 Peachtree Street, NE, Suite 1600, Atlanta, GA 30309 (Attn: Brooke L. Bean, Esq., [bbean@kslaw.com](mailto:bbean@kslaw.com)). Each Objection Notice must state with specificity the grounds for the objection. The Debtors shall promptly notify the Notice Parties of any Objection Notice they receive (with email being sufficient).
- e. If no written objection is received by the Debtors **by 5:00 p.m. eastern time on the seventh (7th) day following the Sale Notice**, the Debtors shall be authorized, without further notice and without further Court approval, to immediately consummate the proposed sale transaction, and any entities having a Lien on the property sold shall be deemed to have consented to the sale. In addition, the applicable Debtor may consummate a proposed sale prior to the expiration of the applicable Notice Period if each Notice Party consents in writing (with email being sufficient) to the proposed transaction. Upon either (i) the expiration of the Notice Period without the receipt of any objection or (ii) the written consent of the Notice Parties, the proposed sale will be deemed final and fully authorized by the Court.
- f. If a Notice Party provides a timely written objection to the proposed transaction, the Debtors and such objecting Notice Party shall use good faith efforts to consensually resolve the objection. If the objection is resolved, the Debtors shall be authorized to consummate the proposed sale transaction, and any entities having a Lien on the property sold shall be deemed to have consented to the sale. If the Debtors and the objecting Notice Party are unable to reach a consensual resolution, the Notice Party shall have five (5) business days after being notified in writing by

the Debtors that the objection has not been resolved to file a formal objection, and the matter shall be resolved by the Court (or by withdrawal of the formal objection) prior to the closing of the transaction at a hearing to be scheduled as soon as reasonably practicable and in accordance with the Court's calendar.

10. As soon as practicable after each sale of De Minimis Assets, the Debtors will file a report of sale in accordance with Rule 6004(f)(1).

### **BASIS FOR RELIEF**

11. In connection with the day-to-day operation of their businesses, the Debtors have accumulated certain miscellaneous De Minimis Assets, including, but not limited to, liquor licenses, restaurant furniture, computer and other restaurant related equipment, spare or other unusable parts and inventory, and various other personal property. In the exercise of their sound business judgment, the Debtors have determined that the prompt sale of De Minimis Assets without the need for further Court approval is in the best interests of their estates and creditors because it will maximize recoveries by reducing administrative expenses in connection therewith and conserve the resources of both this Court and the Debtors by avoiding the need for serial motions to approve sales which fall below a certain value threshold. Accordingly, by this Motion, the Debtors seek approval of the procedures described above to complete the sale of De Minimis Assets on an expedited basis without the need for obtaining further Court approval, so long as the transaction and notice thereof fall within the parameters described below.

12. Section 363(b)(1) of the Bankruptcy Code provides that a trustee or debtor in possession may, after notice and a hearing, sell property of the estate outside of the ordinary course of business. 11 U.S.C. § 363(b)(1). The use, sale, or lease of property of the estate, other than in the ordinary course of business, is permitted if there is a "sound business purpose" that justifies the requested transaction. *See Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*,

722 F.2d 1063, 1071 (2d Cir. 1983); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991); *Big Shanty Land Corp. v. Comer Properties, Inc.*, 61 B.R. 272, 278 (N.D. Ga. 1985). In essence, this inquiry amounts to a “business judgment test.” *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999).

13. The Debtors have determined, in the exercise of their business judgment, that the De Minimis Assets are no longer of use to the Debtors and that the sale of De Minimis Assets will generate funds for the Debtors’ estates. Furthermore, the sale of De Minimis Assets will reduce the Debtors’ costs associated with storing De Minimis Assets or moving them to other locations. The Debtors have determined that the sale of De Minimis Assets, in accordance with the sale procedures described above, will enable the Debtors to realize maximum value and, therefore, is in the best interests of the Debtors’ estates and their creditors.

14. The Debtors have determined that it is in the best interests of their estates and creditors to sell the De Minimis Assets in accordance with the proposed procedures to avoid the unnecessary expenses that would otherwise be incurred if they had to seek approval of such sales separately. The Debtors believe that the proceeds generated by a sale of De Minimis Assets with de minimis value does not warrant incurring such expenses. As such, the Debtors submit that the sale procedures set forth above are fair and appropriate; the procedures balance the need for a reduction of burdensome costs to the Debtors’ estates with the desire of the parties most interested in these transactions for notice and an opportunity to object.

15. Section 363(f) of the Bankruptcy Code provides that a debtor in possession may sell property free and clear of a lien, claim, or interest of another entity in such property if, among

other things, such entity consents or such entity could be compelled in a legal or equitable proceeding to accept a money satisfaction of such interest. *See* 11 U.S.C. § 363(f); *Citicorp Homeowner Servs. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (finding that a creditor's failure to make a timely objection after receiving notice of the sale constituted consent for purposes of section 363(f)(2)); *Seidle v. Modular Paving, Inc. (In re 18th Avenue Dev. Corp.)*, 14 B.R. 862, 863–64 (Bankr. S.D. Fla. 1981) (holding that the requirements of section 363(f) were met where each creditor could be compelled to accept the money satisfaction of its interest). To facilitate the proposed sales in accordance with the sale procedures described above, the Debtors request that the Court authorize the sale of the De Minimis Assets, pursuant to section 363(f) of the Bankruptcy Code, free and clear of Liens, with such Liens to be transferred and attached to the net proceeds obtained for the De Minimis Assets.

16. Similar relief to the relief requested in this Motion has been granted in this and other jurisdictions. *See e.g., In re Red Lobster Management LLC*, Case No. 24-02486 (GER) (Bankr. M.D. Fla. May 19, 2024) [Docket No. 626]; *In re Aerotech Miami Inc.*, Case No. 23-17503 (RAM) (Bankr. S.D. Fla. September 19, 2023) [Docket No. 187]; *In re Remington Outdoor Company, Inc.*, Case No. 20-81688 (CRJ11) (Bankr. N.D. Ala. July 27, 2020) [Docket No. 1439]; *In re Fibrant, LLC*, Case No. 18-10274 (SDB) (Bankr. S.D. Ga. February 23, 2018) [Docket No. 233]; *Cagle's, Inc. and Cagle's Farms, Inc.*, Case No. 11-80202 (PWB) (Bankr. N.D. Ga. December 27, 2011) [Docket No. 232]; *In re Allen Family Foods, Inc.*, Case No. 11-11764 (KJC) (Bankr. D. Del. July 13, 2011) [Docket No. 164]; *In re Dan River*, Case No. 04-10990 (Drake)

(Bankr. N.D. Ga. May 28, 2004) [Docket No. 287]; *In re Centennial Healthcare Corp.*, Case No. 02-74974 (Massey) (Bankr. N.D. Ga. Apr. 24, 2003) [Docket No. 523].<sup>3</sup>

17. For the foregoing reasons, the Debtors respectfully submit that the relief requested in this Motion is appropriate and in the best interests of their estates and creditors.

#### **WAIVER OF ANY APPLICABLE STAY**

18. 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.

#### **NOTICE**

19. Notice of this Motion has been provided to the Limited Service List. In light of the nature of the relief requested, the Debtors submit that no further notice is necessary.

#### **NO PRIOR REQUEST**

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

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<sup>3</sup> 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.



**CONCLUSION**

WHEREFORE, the Debtors request this Court enter an order, substantially in the form of **Exhibit A**, 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 11, 2025  
Atlanta, Georgia

Respectfully submitted,

KING & SPALDING LLP

/s/ Jeffrey R. Dutson

Jeffrey R. Dutson  
Georgia Bar No. 637106  
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*Proposed Counsel for the Debtors in Possession*

**Exhibit A**

**Proposed 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.	)	(Jointly Administered)
_____	)	

**ORDER (I) APPROVING PROCEDURES FOR  
DE MINIMIS ASSET SALES AND (II) GRANTING RELATED RELIEF**

This matter is before the Court on the *Debtors' Motion for Order (I) Approving Procedures for De Minimis Asset Sales and (II) Granting Related Relief* (the “Motion”) [Docket No. [•]] 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.

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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.

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 granted as set forth herein.
2. The Debtors are authorized to, from time-to-time and without further order of this Court, sell De Minimis Assets for consideration not to exceed \$100,000 per transaction. The Debtors shall not sell property in excess of \$100,000 per transaction without further order of this Court.
3. If the consideration for a particular sale of De Minimis Assets does not exceed \$50,000, the Debtors are authorized to consummate such sale without further notice to any party other than by filing a report of sale upon completion of the sale.
4. If the consideration for a particular sale of De Minimis Assets exceeds \$50,000 but is less than \$100,000, the Debtors are authorized to consummate such sale pursuant to the following procedures:
  - a. The Debtors shall give written notice of the proposed sale (the "Sale Notice") to: (i) the Office of the United States Trustee for the Northern District of Georgia (the "U.S. Trustee"); (ii) counsel for any statutory committee if appointed (each, an "Official Committee"); and (iii) counsel to the DIP Lender as follows: Porter Hedges LLP, 1000 Main Street., 36<sup>th</sup> Floor, Houston, TX 77002 (Attn: Joshua Wolfshohl (JWolfshohl@porterhedges.com) and Brian Rose

(BRose@porterhedges.com)) (each, a “Notice Party” and collectively, the “Notice Parties”).

- b. The Sale Notice will be served on the Notice Parties *via* first class mail, overnight mail or email and shall specify (i) the identification of the De Minimis Assets being sold; (ii) the identities of the seller and the proposed purchaser; and (iii) the purchase price.
- c. If the terms of a proposed sale or transaction are materially amended after the transmittal of the Sale Notice, the Debtors will transmit an amended Sale Notice (an “Amended Sale Notice”) to the Notice Parties, after which the Notice Parties shall have an additional seven (7) calendar days to object to such sale or other disposition prior to closing such sale or effectuating such transaction; provided, that, for the avoidance of doubt, any change to the purchase price in connection with any sale or any change in retained liabilities of the Debtors in connection therewith shall be deemed material.
- d. The Notice Parties will have the right to object to any such proposed sale of De Minimis Assets by notifying the Debtors in writing of such objection without the need to file a formal objection with the Court (the “Objection Notice”), **not later than 5:00 p.m. (Prevailing Eastern Time) on the seventh (7th) calendar day after the date of service of the Sale Notice or Amended Sale Notice, as applicable**, by the Debtors (the “Notice Period”), *via* hand delivery, overnight mail or email to the proposed counsel for the Debtors, King & Spalding LLP, 1180 Peachtree Street, NE, Suite 1600, Atlanta, GA 30309 (Attn: Brooke L. Bean, Esq., [bbean@kslaw.com](mailto:bbean@kslaw.com)). Each Objection Notice must state with specificity the grounds for the objection. The Debtors shall promptly notify the Notice Parties of any Objection Notice they receive (with email being sufficient).
- e. If no written objection is received by the Debtors **by 5:00 p.m. eastern time on the seventh (7th) day following the Sale Notice**, the Debtors shall be authorized, without further notice and without further Court approval, to immediately consummate the proposed sale transaction, and any entities having a Lien on the property sold shall be deemed to have consented to the sale. In addition, the applicable Debtor may consummate a proposed sale prior to the expiration of the applicable Notice Period if each Notice Party consents in writing (with email being sufficient) to the proposed transaction. Upon either (i) the expiration of the Notice Period without the receipt of any objection or (ii) the written consent of the Notice Parties, the proposed sale will be deemed final and fully authorized by the Court.
- f. If a Notice Party provides a timely written objection to the proposed transaction, the Debtors and such objecting Notice Party shall use good faith efforts to consensually resolve the objection. If the objection is resolved, the Debtors shall be authorized to consummate the proposed sale transaction, and any entities having a Lien on the property sold shall be deemed to have consented to the sale. If the

Debtors and the objecting Notice Party are unable to reach a consensual resolution, the Notice Party shall have five (5) business days after being notified in writing by the Debtors that the objection has not been resolved to file a formal objection, and the matter shall be resolved by the Court (or by withdrawal of the formal objection) prior to the closing of the transaction at a hearing to be scheduled as soon as reasonably practicable and in accordance with the Court's calendar.

5. As soon as practicable after each sale of De Minimis Assets, the Debtors shall file a report of sale in accordance with Bankruptcy Rule 6004(f)(1).

6. Pursuant to section 363(f) of the Bankruptcy Code, any De Minimis Assets sold shall be sold and transferred free and clear of all Liens thereon, if any, with any such valid and perfected Liens to attach to the net sale proceeds, subject to the rights, claims, defenses, and objections, if any, of the Debtors and all interested parties to any asserted Liens. The Debtors shall be authorized to negotiate, execute, and deliver any transfer, sale, and/or assignment documents that are necessary, desirable, or appropriate in connection with consummating sales of De Minimis Assets in accordance with this Order.

7. Sales of De Minimis Assets conducted in accordance with the De Minimis Asset Sale Procedures shall be deemed arm's-length transactions entitled to the protections of Bankruptcy Code section 363(m).

8. The sale transactions consummated pursuant to this Order shall be binding upon and shall govern the acts of all entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the property sold

pursuant to this Order; and each and every federal, state and local governmental agency or department is directed to accept this Order as sole and sufficient evidence of the transfer of title to any particular purchaser, and such agency or department shall rely upon this Order in consummating the transactions contemplated hereby.

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 Secured Superpriority 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 (VI) 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. Any stay imposed by Bankruptcy Rule 6004(h) is hereby waived, and any sale of De Minimis Assets may be consummated immediately upon the expiration of the objection period described above, if applicable.

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

13. 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

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