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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re:

THE ROMAN CATHOLIC BISHOP OF
OAKLAND, a California corporation sole,

Debtor.

Case No. 23-40523

Chapter 11

**DEBTOR’S MOTION FOR INTERIM AND
FINAL ORDERS AUTHORIZING THE
DEBTOR TO (I) CONTINUE EXISTING
INSURANCE COVERAGE AND SATISFY
OBLIGATIONS RELATED THERETO, AND
(II) RENEW, AMEND, SUPPLEMENT,
EXTEND OR PURCHASE INSURANCE
POLICIES IN THE ORDINARY COURSE
OF BUSINESS**

Judge: Hon. William J. Lafferty

Date: TBD

Time: TBD

Place: United States Bankruptcy Court
1300 Clay Street
Courtroom 220
Oakland, CA 94612



1 The Roman Catholic Bishop of Oakland, a California corporation sole, and the debtor and debtor
2 in possession (the “Debtor” or “RCBO”) in the above-captioned chapter 11 bankruptcy case (the “Chapter
3 11 Case” or the “Bankruptcy Case”), hereby files this motion (the “Insurance Motion”), pursuant to
4 sections 105, 363, 364, 503, 1107(a), and 1008 of the United States Code (the “Bankruptcy Code”), for
5 entry of interim and final orders authorizing the Debtor to (i) continue insurance coverage entered into
6 prepetition; (ii) satisfy obligations related thereto whether prepetition or postpetition; (iii) pay brokerage
7 fees and related fees incurred in connection with its insurance program; (iv) maintain its self-insurance
8 program and pay costs related thereto; and (v) renew, amend, supplement, extend, or purchase insurance
9 policies and related agreements as may be required in the ordinary course of business during this
10 Bankruptcy Case.

11 By a separate application, the Debtor is requesting an order shortening time for notice and setting
12 a hearing on this matter and other first day motions on an expedited basis.

13 This Insurance Motion is based on the Memorandum of Points and Authorities set forth herein, the
14 notice of hearing on first day motions filed by the Debtor, the *Declaration of Charles Moore, Managing*
15 *Director of Alvarez & Marsal North America, LLC, Proposed Restructuring Advisor to the Roman*
16 *Catholic Bishop of Oakland, in Support of Chapter 11 Petition and First Day Pleadings* (the “First Day
17 Declaration”) filed concurrently herewith and incorporated herein by reference and upon such oral and
18 documentary evidence as may be presented at the hearing on the Insurance Motion.

19 The Debtor’s proposed forms order granting the relief requested herein on an interim basis (the
20 “Interim Order”) and a final basis (the “Final Order”) are attached hereto as **Exhibit A** and **Exhibit B**.

21 ///

Table of Contents

I. INTRODUCTION..... 1

II. JURISDICTION..... 1

III. BACKGROUND FACTS..... 2

 A. General Background 2

 B. The Debtor’s Insurance Program..... 6

 1. The Program Insurance Policies..... 6

 2. Premiums and Premium Finance Agreement 8

 C. Deductibles and Self-Insured Retention..... 10

 D. Self-Insured Coverages 11

 E. Brokerage and Related Fees 12

 F. Renewal..... 13

IV. RELIEF REQUESTED 14

V. BASIS FOR RELIEF..... 15

 A. Continuance of the Insurance Program is Required by Law..... 15

 B. Satisfying Insurance Program Obligations in the Ordinary Course is Necessary
 and Warranted..... 15

 C. There is Cause to Authorize the Debtor’s Financial Institutions to Honor Checks
 and Transfers Related to the Insurance Program..... 20

 D. Basis for Relief Under Bankruptcy Rule 6003(b) 21

 E. Basis for Waiver of Bankruptcy Rule 6004(h)..... 21

VI. RESERVATION OF RIGHTS 21

VII. NOTICE..... 22

VIII. CONCLUSION..... 22

Table of Authorities

Page(s)

Cases

In re Adams Apple, Inc.,
829 F.2d 1484 (9th Cir. 1987) 18

In re Braniff, Inc.,
218 B.R. 628 (Bankr. M.D. Fla. 1998)..... 18

In re Columbia Gas Sys., Inc.,
171 B.R. 189 (Bankr. D. Del. 1994) 18

Crystalin, LLC v. Selma Props. Inc. (In re Crystalin, LLC),
293 B.R. 455 (B.A.P. 8th Cir. 2003)..... 16

Czyzewski v. Jevic Holding Corp.,
137 S. Ct. 973 (2017) 18

In re Defender Drug Stores, Inc.,
145 B.R. 312 (B.A.P. 9th Cir. 1992)..... 17

F.D.I.C. v. Castetter,
184 F.3d 1040 (9th Cir. 1999) 16

In re Farmland Indus., Inc.,
294 B.R. 855 (Bankr. W.D. Mo. 2003)..... 16

Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.),
107 F.3d 558 (8th Cir. 1997) 16, 17

In re Ionosphere Clubs, Inc.,
98 B.R. 174 (Bankr. S.D.N.Y. 1989) 17, 18

In re Johns-Manville Corp.,
60 B.R. 612 (Bankr. S.D.N.Y. 1986) 16

In re Just for Feet, Inc.,
242 B.R. 821 (D. Del. 1999)..... 17

Lamden v. La Jolla Shores Condo. Homeowners Assn.,
21 Cal. 4th 249 (Cal. 1999) 16

In re Lehigh & New Eng. Ry. Co.,
657 F.2d 570 (3d Cir. 1981) 17

In re Martin (Myers v. Martin),
91 F.3d 389 (3d Cir. 1996) 15, 16

Miltenberger v. Logansport. C. & S.W.R. Co.,
106 U.S. 286 (1882)..... 17

in re Montgomery Ward Holding Corp.,
242 B.R. 147 (D. Del. 1999)..... 16

In re Pettit Oil Co.,
No. 13-47285, 2015 WL 6684225 (Bankr. W.D. Wash. Oct. 22, 2015)..... 18

Richmond Leasing Co. v. Capital Bank, N.A.,
762 F.2d 1303 (5th Cir. 1985) 17

In re Schipper (Fulton State Bank v. Schipper),
933 F.2d 513 (7th Cir. 1991) 16

In re United Artists Theatre Co.,
315 F.3d 217 (3d Cir. 2003) 16

1
2
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4
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11
12
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14
15
16
17
18
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Statutes

11 U.S.C. §§ 105(a) and 363(b)..... 1, 17
11 U.S.C. §§§§§§ 105, 363, 364, 503, 1107(a), and 1108..... 2, 17
11 U.S.C. § 345(B)..... 11
11 U.S.C. § 363..... 15, 17
11 U.S.C. §363(b)(1)..... 15, 18
11 U.S.C. § 363(b) 16, 18, 19
11 U.S.C. § 363(c)(1)..... 15, 19
11 U.S.C. § 365..... 21
11 U.S.C. § 1112..... 15
11 U.S.C. § 1112(b)(4)(C)..... 15
11 U.S.C. §§ 1107(a) and 1108 2
28 U.S.C. § 157(b) 1
28 U.S.C. §§ 157 and 1334..... 1
28 U.S.C. §§ 1408 and 1409..... 2
42 U.S.C. §§ 2000bb-2000bb-4 21
California Corporations Code §§ 10000-10015 21

Rules

Fed. R. Bankr. P. 6003 21
Fed. R. Bankr. P. 6003(b)..... 21

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**
3 **INTRODUCTION**

4 1. The Debtor maintains a comprehensive insurance program as part of the ordinary course
5 of its operations. This program includes more than twenty insurance policies issued by a number of
6 carriers (the “Program Policies”) and a self-insurance program covering losses within the deductible and
7 self-insured retention amounts of the policies (the “Self-Insured Coverages”). Collectively, these Program
8 Policies and Self-Insured Coverages (together, the “Insurance Program”) provide coverages for, among
9 other things, real property, general and specialized liability, equipment, cyber and privacy, and excess
10 lines related to the foregoing.

11 2. It is essential that the Debtor continue to maintain its existing insurance coverage. The
12 Insurance Program is necessary to its operation and mission, is typical of other similarly situated dioceses
13 in the United States, and is prudent business insurance for an organization of the Debtor’s type and size.
14 By this motion, the Debtor seeks authorization to maintain its Insurance Program, including payment of
15 premiums, insurance financing payments, and all obligations related thereto (the “Insurance Obligations”).

16 3. Many of the Debtor’s Program Policies will expire on or about July 1, 2023, and it is critical
17 that the Debtor continue to carry appropriate and consistent insurance coverage throughout this case. The
18 Debtor therefore also seeks authorization to renew, extend, or enter into new insurance policies and related
19 agreements in the ordinary course of business, and to pay its regular brokerage fees in connection with its
20 Insurance Program.

21 4. Payment of all Insurance Obligations is a sound exercise of the Debtor’s business judgment
22 and is necessary to avoid the immediate and irreparable harm to the Debtor’s estate that would result if
23 the Debtor’s insurance lapsed. The relief requested herein is therefore appropriate and authorized under
24 sections 105(a) and 363(b) of the Bankruptcy Code.

25 **II.**
26 **JURISDICTION**

27 5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334.
28 This is a core proceeding pursuant to 28 U.S.C. § 157(b), the *Order Referring Bankruptcy Cases and*

1 *Proceedings to Bankruptcy Judges*, General Order No. 24 (N.D. Cal.), and Local Rule of Bankruptcy
2 Procedure for the Northern District of California 5011-1(a). Venue for this matter is proper in this district
3 pursuant to 28 U.S.C. §§ 1408 and 1409.

4 6. The legal bases for the relief requested herein are sections 105, 363, 364, 503, 1107(a), and
5 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004.

6 **III.**
7 **BACKGROUND FACTS**

8 **A. General Background**

9 7. On the date of this Motion (the “Petition Date”), the Debtor caused its attorneys to file a
10 voluntary petition for chapter 11 bankruptcy relief under Bankruptcy Code. The Debtor continues to
11 operate its ministry and manage its properties as a debtor in possession under sections 1107(a) and 1108
12 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in this Chapter
13 11 Case.

14 8. The Debtor is a corporation sole organized under the laws of the State of California. The
15 Debtor conducts its civil affairs under the laws of the State of California and the United States of America
16 and in accordance with the Code of Canon Law (“Canon Law”), the ecclesiastical law of the Roman
17 Catholic Church (the “Catholic Church”).

18 9. The Diocese of Oakland was established by the Holy See on January 13, 1962 as the
19 spiritual home of the Catholic Church in Northern California. The diocese spans roughly 1,467 square
20 miles and encompasses two counties, Alameda and Contra Costa. The diocese is situated along the eastern
21 shore of the San Francisco Bay.

22 10. The Debtor estimates that it serves nearly 550,000 resident Catholics and assists
23 approximately 260,000 people through its ministry and charitable services. The Debtor has been under the
24 leadership of the incumbent bishop, Most Reverend Michael C. Barber, SJ (“Bishop Barber” or the
25 “Bishop”), since his appointment on May 25, 2013. The diocese includes 82 parishes and missions and
26 is home to 159 diocesan priests, 160 religious priests, 35 extern priests and 118 permanent deacons.

1 11. The Debtor provides resources, programming, spiritual leadership, and other key services
2 and support to local Catholics and the East Bay community at large, including substantial support for the
3 poor and for minority communities. The ministry of the Debtor is therefore critical to not only the faithful
4 within the diocese, but also to the public-at-large, including non-Catholics.

5 12. To carry out its Catholic mission, the Debtor works closely with its 82 parish churches (the
6 “Churches”). The Churches play a central role in the lives of Catholics living within the diocese by
7 administering key aspects of the Catholic Faith, including baptism, education, communion, Mass,
8 confirmation, marriage, and bereavement, including last rites, funeral services and grief support. In this
9 way, the Churches provide the critical connection between the Debtor and the faithful from the beginning
10 of life to the end.

11 13. None of the Churches within the diocese are separately incorporated entities under
12 California law. To the extent the Bishop holds goods belonging to a parish—including, for example, real
13 and personal property—he does so in trust for the benefit of the applicable Church.

14 14. Through common missions, the Debtor is affiliated with certain entities that are separately
15 incorporated under California law and which are not debtors in this Bankruptcy Case (each such affiliated
16 incorporated entity a “Non-Debtor Catholic Entity,” and collectively, the “Non-Debtor Catholic Entities”).
17 The Debtor provides administrative services (centralized human resources, accounting, and financial
18 management) and programmatic support services to certain Non-Debtor Catholic Entities in support of
19 their religious, educational and charitable missions. Each Non-Debtor Catholic Entity operates
20 independently and accounts for its operations separately. None of the Non-Debtor Catholic Entities have
21 sought relief under chapter 11 or are debtors in this Bankruptcy Case.

22 15. Among the affiliates of the Debtor are the Non-Debtor Catholic Entities. This includes,
23 without limitation, the Roman Catholic Welfare Corporation of Oakland, a California nonprofit religious
24 corporation (“RCWC”), and the Roman Catholic Cemeteries of the Diocese of Oakland, a California
25 corporation (“RCC”). RCWC oversees 32 elementary schools and two high schools. RCC operates and
26 administers the six diocesan cemeteries, five diocesan mortuaries, two mausoleums, and one
27 crematory. RCC is also the Debtor’s secured lender.

1 16. Under Canon Law, a diocese is “a portion of the people of God which is entrusted to a
2 bishop for him to shepherd with the cooperation of the presbyterium....” (c. 369). As such, a diocese is
3 inherently *territorial*, comprised of a specific geographic area and the faithful within it. A diocese
4 conducts its civil affairs for the practice of the Catholic Church within that geographic area and for the
5 faithful within the area.

6 17. Also under Canon Law, every diocese is divided into distinct parts, known as parishes, that
7 are ecclesiastical entities consisting of communities of the faithful whose pastoral care is entrusted to a
8 pastor (i.e., a priest) whom the bishop appoints to serve the parish to which he is assigned. (cc. 374 §1,
9 515 §1.)

10 18. Each diocese, and each parish within a diocese, is a separate public juridic person. (cc.
11 573, 515 §3.) The administration of property belonging to a juridic person pertains to its administrator,
12 such as the diocesan bishop over the property of a diocese, and the priest over the property of a parish.
13 (cc. 393, 532.) Each such administrator is obligated to acquire, hold, administer, and/or alienate such
14 property in accordance with Canon Law (c. 1257), which requires that property held by any juridic
15 person—diocese, parish, or otherwise—must be used for the purposes of the Catholic Church. The bishop
16 is responsible for administering the property belonging to the diocese, and each pastor is responsible for
17 being the exclusive administrator of the property belonging to his parish. Similarly, the pastoral care of
18 the faithful across the entire diocese is entrusted to the bishop, whereas the pastoral care of the faithful
19 within each particular parish is entrusted to the pastor for the parish.

20 19. Addressing the needs of victim-survivors of clergy sexual abuse, and the protection of
21 children, have long been priorities of the Debtor. More than a decade before the U.S. Conference of
22 Catholic Bishops adopted in the Spring of 2002 the *Charter for the Protection of Children and Young*
23 *People* (the “Charter”), the Debtor established a “Sensitive Issues Committee” to assist the bishop in
24 reviewing and handling allegations of sexual abuse by persons acting in the name of the Catholic Church.

25 20. Following the Charter’s adoption, the Sensitive Issues Committee was renamed the
26 Diocesan Review Board in 2003 and again renamed the Minor Diocesan Review Board in 2022 (the
27 “MDRB”). The MDRB actively functions today. Its five lay members (including a victim-survivor of
28

1 clergy sexual abuse and business consultant, a former district attorney, a social worker, a retired
2 educational administrator, and a lay pastoral associate) and three clergy members meet at least quarterly
3 to assess allegations and make recommendations on the handling of those allegations of sexual abuse of
4 children by clergy. This consultative body is critical to the Debtor’s work to address crimes against
5 children. The MDRB works with the bishop to analyze and properly respond to claims so credibility can
6 be determined and acted upon in the best interest of the victim-survivor.

7 21. In 2004, the Debtor began developing specific “safe environment” trainings for all adults
8 – whether volunteer or employed – who serve in the diocese. The Debtor gives rigorous attention to
9 training materials and teaches adult parish and school leaders to facilitate the training program. Processes
10 have been put in place to refer anyone with claims regarding clergy sexual abuse to law enforcement and
11 Debtor representatives for assistance.

12 22. The Office of Safe Environment has continually improved the content of its trainings and,
13 when online platforms became available, former Bishop John S. Cummins approved their use. In 2016,
14 Bishop Barber moved the training program to an online synchronous platform provided by The National
15 Catholic Risk Retention Group known as Virtus, an international leader in abuse awareness training. The
16 Debtor now has local safe environment coordinators in each of the Churches. There are local safe
17 environment coordinators in every Catholic school within the diocese.

18 23. In the State of California, there have been two “open window” periods allowing individuals
19 to bring claims under civil law for childhood sexual abuse which otherwise were barred because the statute
20 of limitations (prescription) had expired. In 2002, the California Legislature permitted certain expired
21 claims of childhood sexual abuse not only against the perpetrators but also against third-party defendants
22 (like the Debtor) for a one-year period starting January 1, 2003 (the “First Legislation”). The Debtor paid
23 approximately \$56,000,000 to 52 plaintiffs in settlement of claims brought in the wake of the First
24 Legislation.

25 24. On October 13, 2019, Governor Gavin Newsom signed into law California Assembly Bill
26 No. 218 (“AB 218”). AB 218 revived the statute of limitations for individuals to file civil lawsuits for
27 childhood sexual abuse. This allowed certain individuals to bring what had been time-barred claims
28

1 against individuals and entities for such claims through and including December 31, 2022. As of May 4,
2 2023, there were approximately 332 separate, active lawsuits or mediation demands pending against the
3 Debtor filed by plaintiffs alleging sexual abuse by clergy or others associated with the Debtor.¹

4 25. In this Chapter 11 Case, the Debtor will pursue a plan of reorganization that will (a) ensure
5 a fair and equitable outcome for victim-survivors of sexual abuse, and (b) allow the Debtor to stabilize its
6 finances, continue its mission to serve the needs of the faithful within the diocese, and continue to provide
7 services to underserved people and groups in the East Bay.

8 26. Additional information regarding the Debtor, its mission, ministries, and operations, and
9 the events and circumstances preceding the Petition Date is set forth in the First Day Declaration.

10 **B. The Debtor's Insurance Program**

11 *1. The Program Insurance Policies*

12 27. In support of its ongoing mission and in the ordinary course of business, the Debtor
13 maintains a comprehensive Insurance Program. Through several insurance carriers (each an "Insurance
14 Carrier" and collectively the "Insurance Carriers"), the Debtor maintains the Program Policies that cover
15 liability, property, automotive, and other risks. The Program Policies maintained by the Debtor provide
16 for, among other things, (a) real property coverage for all properties including those owned by the
17 Churches and Non-Debtor Catholic Entities, including general real property coverage and additional
18 earthquake and difference-in-conditions coverages, (b) liability coverage including general liability, auto,
19 employment practices, errors & omissions, directors & officers, and sexual misconduct (c) cyber liability,
20 including privacy and regulatory response, (d) fiduciary liability and employed lawyers errors &
21 omissions coverage, (e) losses as a result of crime, (f) equipment breakdown coverage, and (g) excess
22 liability coverages. A listing of these Program Policies is attached hereto as **Exhibit C** (the "Package
23 Insurance Schedule"). In addition, the Debtor maintains Self-Insured Coverages, as described more fully
24 below, covering losses within the deductible and retention limits of the Program Policies.

25
26
27 ¹ It is the Debtor's understanding that there is a backlog associated with the processing of these cases in the Clerk's Office for
28 Alameda County, and it is possible that other timely filed claims will be processed after the filing of this case of which the
Debtor is not currently aware.

1 28. In addition to the Debtor, certain Churches and Non-Debtor Catholic Entities are named as
2 insureds under the Program Policies and contribute a portion of the cost of coverage to the Debtor. As
3 part of the Debtor’s overall Insurance Program, the Debtor pays the Insurance Obligations, and is
4 reimbursed by the Churches and covered Non-Debtor Catholic Entities for their proportional share of the
5 Insurance Obligations, as described below.

6 29. The inclusion of the Churches and Non-Debtor Catholic Entities as insureds under the
7 Program Policies benefits the Debtor. Centralized purchasing of the Policies allows the Debtor to take
8 advantage of the combined market power of the collective diocesan entities, obtaining better rates than
9 would otherwise be available if the individual Churches and Non-Debtor Catholic Entities had to purchase
10 coverage on an individual basis. In other words, because the Debtor is one of many insureds under the
11 Program Policies, the Debtor is required to bear a lower percentage of the cost of the Program Policies
12 than it would if the other insureds were not included in the program. If the Debtor failed to maintain the
13 Program Policies, other insureds may withdraw from the Program Policies, and the Debtor’s insurance
14 costs would increase. Further, centralized insurance purchasing ensures that all of the diocese operations
15 have adequate and uniform coverage. Indeed, it is likely that in some cases individual Churches would
16 struggle to obtain coverage at all if it were not provided on a unified basis.

17 30. Moreover, in many instances, insurance coverage is required by the regulations, laws, and
18 contracts that govern the Debtor’s activities. This includes the Office of the United States Trustee’s (the
19 “U.S. Trustee”) requirement that a debtor maintain adequate coverage given the circumstances of its
20 chapter 11 case.

21 31. In addition to the Program Policies covering property and liability risks as described herein,
22 the Program Policies maintained by the Debtor also include certain employee health, disability, workers’
23 compensation and related insurance policies and programs (the “Employees’ Benefits Program and
24 Workers’ Compensation Insurance”). The Employees’ Benefits Program and Workers’ Compensation
25 Insurance, including related policies, are discussed in detail in the *Debtor’s Motion For Interim and Final*
26 *Orders Authorizing the Debtor to (I) Pay Prepetition Employee Wages, Salaries, Benefits and Other*
27 *Related Items, (II) Reimburse Prepetition Employee Business Expenses, (III) Continue Employee Benefit*
28

1 *Programs, and (IV) Pay All Costs and Expenses Incident to the Foregoing*, by which the Debtor seeks
2 approval to pay the obligations related thereto.

3 32. The Program Policies are essential to protect the Debtor’s operations and the value of its
4 assets and to manage the risks associated with its operations. Continuation of the Program Policies
5 uninterrupted is essential to the ongoing operation of the Debtor and to its ability to perform its ministry
6 and fulfill its mission.

7 33. To ensure uninterrupted coverage and continuation of payment plans and schedules
8 between the insureds covered by the Program Policies, the Debtor requests authority to maintain its
9 existing Program Policies, pay any prepetition obligations related to the Program Policies, and enter into
10 new insurance policies, in the ordinary course of business.

11 2. Premiums and Premium Finance Agreement

12 34. Generally, each of the Program Policies runs for a one-year term. Most renew on July 1 of
13 each year.² The costs of coverage, including both premiums and premium finance payments, are paid
14 directly by the Debtor. The Churches and Non-Debtor Catholic Entities are invoiced and reimburse the
15 Debtor for their allocated share of the costs pursuant to reimbursement arrangements by and between the
16 Debtor and the individual Churches and Non-Debtor Catholic Entities. Allocation and invoicing services
17 are provided to the Debtor pursuant to a services agreement (the “Allocation Services Agreement”) with
18 the Debtor’s Insurance Broker (as defined below). A true and correct copy of the Allocation Services
19 Agreement is attached hereto as **Exhibit D**.

20 35. The Debtor finances the premiums for the majority of the Program Policies (collectively,
21 the “Financed Policies”) because it is not economically advantageous for the Debtor to pay the premiums
22 on the Financed Policies, in full, on a lump-sum basis. In the ordinary course of business, the Debtor
23 finances the premiums for the Financed Policies that provide excess property coverage and liability
24 coverage pursuant to a premium financing agreement, signed on July 14, 2022 (the “Premium Financing
25 Agreement”), with Bank Direct Capital Finance (“Bank Direct”). The Premium Financing Agreement
26

27 _____
28 ² The renewal periods are reflected on the attached Package Insurance Schedule.

1 allows the Debtor to pay the cost of the Premiums for the Financed Policies spread over a down-payment
2 and eleven subsequent monthly payments, for a total financing charge of approximately \$52,000, which
3 includes the monthly payments.

4 36. In consideration for Bank Direct's obligations to pay the Debtor's Premiums on account of
5 the Financed Policies, the Premium Financing Agreement requires the Debtor to pay approximately
6 \$290,000 on the second day of each month. As of the Petition Date, one premium financing payment
7 remained under the current Premium Financing Agreement. The Debtor pays Bank Direct directly for all
8 amounts owed under the Premium Financing Agreement.

9 37. By this motion, the Debtor seeks authority to honor any amounts owed on account of the
10 Premium Financing Agreement in the ordinary course, including the last remaining payment in the amount
11 of approximately \$290,000 which will come due on or about June 2, 2023, to ensure uninterrupted
12 coverage under the Program Policies. While the Debtor is not presently aware of and obligations that
13 accrued prepetition under the Premium Finance Agreement, in an abundance of caution the Debtor
14 requests authority to continue honoring any amounts that are or become due and owing on account of the
15 Premium Financing Agreement.

16 38. The Debtor's obligations under the Premium Financing Agreement are secured by all of
17 the Debtor's right, title, and interest in and to each Financed Policy and all sums payable to the Debtor
18 thereunder, including, among other things, any gross unearned premiums, dividend payments, and any
19 payment on account of loss that results in a reduction of unearned premiums in accordance with the terms
20 of the Financed Policies.

21 39. If the Debtor fails to honor its obligations under the Premium Financing Agreement, Bank
22 Direct might seek relief from the automatic stay to terminate the Financed Policies to recoup its losses.
23 The Debtor could then be required to obtain replacement insurance on an expedited basis and likely at a
24 significant cost to the estate. The Debtor would likely face great hardship and increased costs if required
25 to obtain replacement insurance and pay a lump-sum premium in advance. Even if the Financed Policies
26 were not terminated, any interruption in the Debtor's payments could have a severe, adverse effect on the
27 Debtors' ability to finance premiums for future policies.

28 DEBTOR'S MOTION TO MAINTAIN INSURANCE PROGRAM

1 40. The Debtor also directly pays the premiums for certain other Program Policies. These
2 include (1) Debtor’s real and personal property casualty coverage provided by Church Mutual Insurance
3 Company has premiums of approximately \$900,000 annually, which are billed and paid on a monthly
4 basis; (2) the Debtor’s crime insurance, which is accrued on a three-year basis, paid in a lump sum every
5 three years, and has a premium cost of approximately \$32,000; and (3) two policies providing accident
6 insurance coverage.

7 **C. Deductibles and Self-Insured Retention**

8 41. Some of the Program Policies provide for either a self-insured retention amount (each a
9 “SIR”) or a deductible (each a “Deductible”) that must be paid by the Debtor as a condition of coverage.
10 For instance, the Debtor’s Insurance Policy covering real property damage provides for a deductible
11 amount of \$100,000 per occurrence as to most covered losses, with coverage provided for losses above
12 that amount, and the Debtor’s general liability policy provides for coverage above an SIR retained amount
13 of \$250,000 per loss as to most covered losses. Depending on the type of claim and the applicable
14 Insurance Policy, the Debtor must ultimately pay up to the applicable Deductible threshold for each
15 successful or settled claim against these particular Program Policies. Likewise, for the Program Policies
16 with SIR amounts, the Insurance Carrier provides coverage for losses in excess of the retained SIR amount
17 for each occurrence. Generally, any claim amounts due in excess of the Deductible or SIR threshold for
18 any given claim are the Insurance Carrier’s responsibility.

19 42. As of the Petition Date, the Debtor does not believe that there are any Insurance Obligations
20 for Deductibles on account of prepetition claims under the Program Policies. In the ordinary course of
21 business, however, the Debtor will need to continue paying the Deductibles as they arise to preserve the
22 coverage under certain Program Policies. Because the amount of Deductibles varies from month to month,
23 the monthly (or aggregate) liability on account of Deductibles during the pendency of this chapter 11 case
24 cannot be ascertained as of the Petition Date. Accordingly, the Debtor seeks authority out of an abundance
25 of caution to honor any amounts owed on account of Deductibles and to pay such amounts in the ordinary
26 course of their businesses, including any prepetition amounts, to ensure uninterrupted coverage under the
27 Program Policies.

1 **D. Self-Insured Coverages**

2 43. Property losses and liability claims in excess of \$5,000 but below the property and general
3 liability Deductible and SIR amounts for the Program Policies are covered through the Self-Insured
4 Coverages. Self-insurance in the general form of the Self-Insured Coverages is common in organizations
5 of similar size to the Debtor. It provides a material cost savings compared to contracting with an Insurance
6 Carrier for coverage within the self-insurance limits.

7 44. The Self-Insured Coverages are administered by Gallagher Bassett Services, Inc., as a
8 third-party administrator (the "Third Party Administrator") pursuant to a claims processing services
9 agreement (the "TPA Agreement"). The Third Party Administrator assists in verifying, negotiating and
10 processing and reimbursement of claim amounts within the Self-Insured Coverages.

11 45. The Debtor operates a separate bank account for Self-Insured Coverages claims processing
12 (the "SIR Imprest Account").³ The Third Party Administrator disburses payments from the SIR Imprest
13 Account to pay covered losses suffered by participating Churches and Non-Debtor Catholic Entities that
14 are below the self-insured retention or deductible limits of the relevant Package Insurance Policy. The
15 costs of the Self-Insured Coverages are allocated between the Debtor, the Churches, and the covered Non-
16 Debtor Catholic Entities.

17 46. Maintaining the Self-Insured Coverages is necessary for the Debtor to continue
18 uninterrupted coverage within the self-insurance amounts. Further, it is an express condition of coverage
19 under the Debtor's liability Program Policies that the Debtor employ or contract with a qualified self-
20 insurance provided to administer its Self-Insured Coverages.

21 47. The current TPA Agreement has a term of July 1, 2022, through July 1, 2023. Fees under
22 the TPA Agreement ("TPA Fees") include per-occurrence fees and other administrative fees. The TPA
23 Fees under the current TPA Agreement are approximately \$50,000 annually. Accrued TPA Fees are
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25 _____
26 ³ Additional detail regarding the SIR Imprest Account and other bank accounts used in connection with the Insurance Program
27 is set forth in the *Debtor's Motion For Interim and Final Orders Authorizing the Debtor to (I) (A) Continue Existing Cash*
28 *Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, (C) Continue Intercompany*
Arrangements, (D) Maintain Existing Bank Accounts and Business Forms, and (E) Continue Use of Existing Credit Card
Accounts; and (II) Waive Certain Requirements of 11 U.S.C. § 345(B), filed concurrently herewith.

1 typically paid every three to four months, in arrears. As of the Petition Date, the Debtor owes
2 approximately \$13,000 on account of TPA Fees, and estimates that approximately \$13,000 of those TPA
3 Fees will become due within thirty days after the Petition Date. The Debtor seeks authority to honor any
4 prepetition TPA Fees to ensure uninterrupted coverage under their Program Policies and to continue to
5 pay the TPA Fees in the ordinary course of their businesses on a postpetition basis.

6 **E. Brokerage and Related Fees**

7 48. For decades, the Debtor has utilized the services of an insurance broker, Arthur J. Gallagher
8 Risk Management Services, LLC (the "Insurance Broker"), or its predecessors, to obtain its Program
9 Policies. The Insurance Broker assists the Debtor with obtaining comprehensive coverage for their
10 operations in the most cost-effective manner, negotiating policy terms, provisions, and premiums,
11 assisting the Debtor with claims, and providing ongoing support throughout the applicable policy periods.
12 Given the size and complexity of the Debtor's insurance program, the assistance of the Insurance Broker
13 is essential.

14 49. The Debtor pays the Insurance Broker fees for brokerage and related services (the
15 "Brokerage Fees") in the ordinary course of business. This includes a Brokerage Fee of approximately
16 \$125,000 paid in January of each year for the upcoming year, which fee covers administration of the
17 Insurance Program, and a placement fee for the worker's compensation program. The Debtor also pays
18 the Insurance Broker a yearly Brokerage Fee in approximately September of each year, of approximately
19 \$20,000, in connection with the Allocation Services Agreement.

20 50. All other Brokerage Fees due to the Insurance Broker for placement of all other Program
21 Policies (other than those noted in the immediately preceding paragraph) are paid as commissions and
22 included in the premiums paid on account of the Program Policies.

23 51. While the Debtor does not believe that any Brokerage Fees are due and owing as of the
24 Petition Date, other than those included as a commission is premium payments to the Insurance Carriers,
25 the Debtor seeks authority to honor any amounts owed to the Insurance Broker, and to continue to pay all
26 Brokerage Fees in the ordinary course of business.

1 52. Continuation of the Insurance Broker's services is necessary to ensure the Debtor's ability
2 to secure insurance policies on advantageous terms at competitive rates, facilitate the proper maintenance
3 of the Debtor's insurance program postpetition, manage allocation of the Program Policies' costs, and
4 ensure commercially reasonable protection of the Debtor's property postpetition. Furthermore, the
5 continued services of the Insurance Broker will help ensure uninterrupted coverage as the Debtor
6 negotiates and procures its insurance policies for the term starting July 1, 2023.

7 **F. Renewal**

8 53. The Program Policies are generally purchased on a twelve-month term, running from July
9 1 to July 1. Most of the current Program Policies therefore have a twelve-month term with an effective
10 date of July 1, 2022, and therefore expire on July 1, 2023. These coverages will therefore need to be
11 renewed within approximately two months after the Petition Date. As part of the relief sought in this
12 Motion, the Debtor seeks authorization to renew, amend, supplement, extend, or purchase insurance
13 policies, as may be required in the ordinary course of business, so that its insurance coverage can be
14 maintained without interruption during the pendency of this Bankruptcy Case.

15 54. The Premium Financing Agreement is for the term of the current Program Policies.
16 Renewal of the Program Policies will require renewal of the Premium Financing Agreement or the
17 execution of a similar finance agreement. The Debtor therefore seeks authority to either renew the
18 Premium Financing Agreement or enter into new premium financing agreements in the ordinary course
19 of business consistent with historical practices, without further Court approval. The Debtor respectfully
20 submits that entry into premium financing agreements in connection with renewal of its Program Policies
21 falls squarely within the ordinary course of the Debtor's business. To reduce the administrative burden,
22 as well as to confirm its ability to satisfy its obligations to maintain appropriate insurance coverage while
23 operating as debtor-in-possession, the Debtor seeks the Court's authority now to renew or enter into
24 premium finance agreements when and as necessary in the Debtor's business judgment.

25 55. Likewise, the TPA Agreement and Allocation Services Agreement are essential parts of
26 the Insurance Program, as described above, and the Debtor therefore believes it is appropriate to renew
27 these agreements, or enter into new similar agreements in the ordinary course of business.

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**IV.
RELIEF REQUESTED**

56. By this Motion, the Debtor requests that the Court enter interim and final orders authorizing the Debtor to maintain its Insurance Program. As part of this relief, the Debtor requests that it be authorized, but not directed, in its discretion and business judgment, to pay in the ordinary course all obligations associated with the Program Policies and the Self-Insured Coverages, including premiums, defense costs, Deductibles, SIRs, Brokerage Fees, TPA Fees, and administrative costs related to the insurance program, including any such amounts arising prepetition (collectively, the “Insurance Obligations”). The Debtor is not aware of any amounts currently due to the Insurance Carriers for prepetition Insurance Obligations for premiums or under the Premium Financing Agreement. There may, however, be Deductible or SIR amounts, Self-Insured Coverages obligations, or other Insurance Obligations that the Debtor is required to cover in connection with coverage for prepetition covered incidents.

57. In furtherance of the foregoing relief, the Debtor requests that its financial institutions and banks be authorized to honor all checks, electronic payment requests, or other withdrawals for payments or reimbursements for Insurance Obligations, whether for the pre- or postpetition period.

58. The Debtor is seeking this authorization in order to maintain the status quo of its Insurance Program, as necessary to safeguard its assets and maintain essential and legally required coverages. It is not seeking approval for assumption or rejection of any executory contracts in connection with this Motion.

59. For clarity, while the Debtor’s past and present insurance policies may provide coverage for abuse claims brought under AB 218, the Debtor is not seeking authority to pay any such claims through this Motion. In order to ensure that all such claims are treated fairly and equitably, the Debtor intends to provide for treatment of these claims through its plan of reorganization.

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V.
BASIS FOR RELIEF

A. **Continuance of the Insurance Program is Required by Law**

60. The Bankruptcy Code recognizes the essential nature of uninterrupted insurance coverage. Both the Bankruptcy Code and the *United States Trustee Chapter 11 Operating and Reporting Guidelines for Debtors in Possession* issued by the U.S. Trustee for Region 17 (the “UST Guidelines”) require that the Debtor maintain adequate insurance. Section 1112 of the Bankruptcy Code provides that “failure to maintain appropriate insurance that 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). Likewise, the UST Guidelines provide that: “The debtor is required to maintain the following insurance coverage, as appropriate: general comprehensive liability; property loss from fire, theft, water, or other extended coverage; workers’ compensation; vehicle; products liability; fidelity bonds for employees; and such other coverage as is customary in the debtor's business.”

61. Maintaining the Program Policies and Self Insurance Program is necessary to comply with Section 1112 of the Bankruptcy Code. Through its Program Policies and Self Insurance Program, the Debtor maintains the appropriate critical to avoiding undue risk “to the estate or to the public.” *See* 11 U.S.C. § 1112(b)(4)(C)

B. **Satisfying Insurance Program Obligations in the Ordinary Course is Necessary and Warranted**

62. Section 363 of the Bankruptcy Code authorizes a debtor-in-possession to enter into transactions and use property of the estate in the ordinary course of business, without notice or a hearing, or other Court approval. *See* 11 U.S.C. § 363(c)(1). To the extent a debtor seeks to use property outside of the ordinary course, the Bankruptcy Code provides that the debtor, with Court approval, “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). A debtor’s decision to use, sell, or lease assets outside the ordinary course of business must be based upon the sound business judgment of the debtor. *See, e.g., In re Martin (Myers v.*

1 *Martin*), 91 F.3d 389, 395 (3d Cir. 1996) (citing *In re Schipper (Fulton State Bank v. Schipper)*, 933 F.2d
2 513, 515 (7th Cir. 1991)).

3 63. In considering requests for use of property under Section 363(b), Courts defer to the
4 reasonable business judgment of the debtor, provided the debtor shows “that a sound business purpose
5 justifies such actions.” See *in re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999)
6 (citations omitted) (the debtor only need “show that a sound business purpose” justifies its proposed use
7 of property); see also *F.D.I.C. v. Castetter*, 184 F.3d 1040, 1043 (9th Cir. 1999) (the business judgment
8 rule “requires directors to perform their duties in good faith and as an ordinarily prudent person in a like
9 circumstance would”). A debtor’s decision to use, sell, or lease assets outside the ordinary course of
10 business must be based upon the sound business judgment of the debtor. See, e.g., *In re Martin (Myers v.*
11 *Martin*), 91 F.3d 389, 395 (3d Cir. 1996) (citing *In re Schipper (Fulton State Bank v. Schipper)*, 933 F.2d
12 513, 515 (7th Cir. 1991)). “Where the debtor articulates a reasonable basis for its business decisions (as
13 distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to
14 the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

15 64. The business judgment rule is not an onerous standard. It may be satisfied “as long as the
16 proposed action appears to enhance the debtor’s estate.” *Crystalin, LLC v. Selma Props. Inc. (In re*
17 *Crystalin, LLC)*, 293 B.R. 455, 463-64 (B.A.P. 8th Cir. 2003) (quoting *Four B. Corp. v. Food Barn Stores,*
18 *Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 566 n.16 (8th Cir. 1997). “A hallmark of the business
19 judgment rule is that, when the rule’s requirements are met, a court will not substitute its own judgment
20 for that of the corporation’s board of directors.” *Lamden v. La Jolla Shores Condo. Homeowners Assn.*,
21 21 Cal. 4th 249, 257 (Cal. 1999)

22 65. In the bankruptcy context, under the business judgment rule, “management of a
23 corporation’s affairs is placed in the hands of its board of directors and officers, and the Court should
24 interfere with their decisions only if it is made clear that those decisions are, *inter alia*, clearly erroneous,
25 made arbitrarily, are in breach of the officers’ and directors’ fiduciary duty to the corporation, are made
26 on the basis of inadequate information or study, are made in bad faith, or are in violation of the Bankruptcy
27 Code.” *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (citing *In re United*
28

DEBTOR’S MOTION TO MAINTAIN INSURANCE PROGRAM

1 *Artists Theatre Co.*, 315 F.3d 217, 233 (3d Cir. 2003), *Richmond Leasing Co. v. Capital Bank, N.A.*, 762
2 F.2d 1303 (5th Cir. 1985), and *In re Defender Drug Stores, Inc.*, 145 B.R. 312, 317 (B.A.P. 9th Cir.
3 1992)); *In re Food Barn Stores, Inc.*, 107 F.3d at 567 n.16 (“[w]here the [debtor’s] request is not
4 manifestly unreasonable or made in bad faith, the court should normally grant approval as long as the
5 proposed action appears to enhance the debtor’s estate”) (citing *Richmond Leasing Co. v. Capital Bank,*
6 *N.A.*, 762 F.2d at 1309 (5th Cir. 1985)).

7 66. Honoring and paying any prepetition Insurance Obligations should be authorized under
8 sections 363 and 105 of the Bankruptcy Code. While paying prepetition obligations outside the
9 bankruptcy priority scheme is not generally permitted, bankruptcy courts have consistently recognized the
10 necessity of making certain such payments in the interest preserving a debtor’s operations, furthering the
11 central policy of rehabilitation and reorganization of the debtor, and protecting the assets of the debtor for
12 the benefit of all stakeholders.

13 67. Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process,
14 or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).
15 A bankruptcy court may use its equitable powers under section 105 of the Bankruptcy Code to permit a
16 debtor in possession to pay prepetition claims when payment is necessary to effectuate a debtor’s
17 bankruptcy goals and essential to the continued operation of the business. *See Miltenberger v. Logansport.*
18 *C. & S.W.R. Co.*, 106 U.S. 286 (1882); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir.
19 1981); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (the doctrine of necessity
20 is derived from the court’s equitable powers and allows debtors to make payment on prepetition claims to
21 critical vendors who will refuse to supply essential services or material).

22 68. The doctrine of necessity derives from a long line of federal cases that have consistently
23 established that a debtor may be permitted to pay prepetition obligations where necessary to preserve or
24 enhance the value of the debtor’s estate for the benefit of all creditors. *See In re Lehigh & New Eng. Ry.*,
25 657 F.2d 570, 581 (3d Cir. 1981) (a court may authorize payment of prepetition claims once essential to
26 the debtor’s continued operation); *In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) (doctrine of
27 necessity authorizes payment of prepetition claims when essential to the continued operation of the
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1 business during reorganization); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del.
2 1994) (explaining that the doctrine of necessity is the standard for enabling a court to authorize the
3 payment of prepetition claims prior to confirmation of a reorganization plan); *In re Braniff, Inc.*, 218 B.R.
4 628, 633 (Bankr. M.D. Fla. 1998) (the doctrine of necessity allows payment of pre-petition employee
5 wages when necessary to preserve the business). Indeed, the Supreme Court has recognized that
6 bankruptcy courts may authorize debtors to immediately pay pre-petition debts of employees and critical
7 vendors that are necessary to a successful reorganization. *Czyzewski v. Jevic Holding Corp.*, 137 S. Ct.
8 973, 985 (2017) (noting that courts have approved distributions that are not consistent with ordinary
9 priority rules where significant code-related objectives are implicated).

10 69. The Ninth Circuit has, albeit in other circumstances, recognized that necessity and
11 furtherance of the essential policies of the Bankruptcy Code may require prepetition payments regardless
12 of priority. See *In re Adams Apple, Inc.*, 829 F.2d 1484, 1490 (9th Cir. 1987) (the essential policy of
13 furthering rehabilitation “may supersede the policy of equal treatment”). Thus, the Ninth Circuit
14 recognized that “[c]ases have permitted unequal treatment of pre-petition debts when necessary for
15 rehabilitation, in such contexts as (i) pre-petition wages to key employees; (ii) hospital malpractice
16 premiums incurred prior to filing; (iii) debts to providers of unique and irreplaceable supplies; and (iv)
17 peripheral benefits under labor contracts.” *Id.* Courts in the Ninth Circuit following *Adams Apple* have
18 consistently held that payment of pre-petition claims may be allowed when the payment is necessary to
19 promote the rehabilitation of the debtor. See, e.g., *In re Pettit Oil Co.*, No. 13-47285, 2015 WL 6684225,
20 at *8 (Bankr. W.D. Wash. Oct. 22, 2015) (citing *In re Adams Apple Inc.* in finding that it “is permissible
21 to treat prepetition debts unequally when necessary for rehabilitation.”).

22 70. In addition, the Court may authorize the Debtor to pay prepetition premiums to maintain
23 insurance coverage under section 363(b) of the Bankruptcy Code. In particular, section 363(b)(1) of the
24 Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than
25 in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Thus, under this section,
26 a court may authorize a debtor to pay certain prepetition claims. See *In re Ionosphere Clubs, Inc.*, 98 B.R.
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1 174, 175-77 (S.D.N.Y. 1989) (affirming order authorizing payment of prepetition wages pursuant to
2 section 363(b) of the Bankruptcy Code).

3 71. Based on the foregoing principles, numerous courts in this Circuit and this District have
4 granted relief substantially similar to that sought in this Insurance Motion. *See, e.g., In re Solid Landing*
5 *Behavioral Health, Inc.*, Case No. 17-12213 (Bankr. C.D. Cal. June 30, 2017) (approving motion for
6 authority to maintain pre-petition insurance programs and pay related premiums and broker's fees); *In re*
7 *NTD Architects, Inc.*, Case No. 16883-BR (Bankr. C.D. Cal. May 8, 2014) (same); *In re All American*
8 *Home Center, Inc.*, Case No. 11-52283-ER (Bankr. C.D. Cal. October 24, 2011) (approving motion for
9 authority to maintain pre-petition insurance programs and pay related premiums); *In re PG&E*
10 *Corporation*, Case No. 19-30088-DM (Bankr. N.D. Cal. February 27, 2019) (authorizing debtors to,
11 among other things, maintain pre-petition insurance programs, including performance of all obligations
12 related thereto, and to renew policies); *In re Watsonville Hospital Corporation, et al.*, Case No. 21-51477-
13 EH (Bankr. N. D. Cal. January 6, 2022) (same).

14 72. Maintaining the Program Policies and the Self-Insured Coverages is consistent with the
15 Debtor's ordinary course of business, and payment of the Insurance Obligations is a use of property in the
16 ordinary course under section 363(c)(1). Likewise obtaining renewed policies for the new term starting
17 in July 2023 is not only necessary, but a routine part of ordinary course operations for both this diocese,
18 and others. Nevertheless, in an abundance of caution, the Debtor seeks approval to continue to pay the
19 Insurance Obligations in the ordinary course and to enter into new insurance agreements.

20 73. Maintaining the Insurance Program without interruption may necessarily require the
21 Debtor to honor and pay certain prepetition obligations, as set forth above. Further, while the Debtor does
22 not believe there are any outstanding prepetition Premium amounts, to the extent it is determined that
23 there are in fact any Premium amounts due, the Debtor seeks authority to pay them in order to maintain
24 coverage. Authority to pay any prepetition amounts that may be due and owing related to the Program
25 Policies—to the extent that the Debtor determines that such payment is necessary to avoid cancellation,
26 default, alteration, assignment, attachment, lapse, or any form of impairment of the coverage, benefits, or
27 proceeds provided under the Program Policies—is necessary, as the insurance coverage provided under
28

DEBTOR'S MOTION TO MAINTAIN INSURANCE PROGRAM

1 the Program Policies is essential for preserving the value of the Debtor's assets and protecting their
2 continued operations. There should be no doubt that maintaining the Insurance Program without
3 interruption are well without the sound business judgment of the Debtor.

4 74. In addition, the Debtor will need to renew or replace certain of their Program Policies
5 during the pendency of this Chapter 11 Case, including to replace the current Program Policies that have
6 terms ending on or about the end of June, 2023. The nonpayment of any premiums, deductibles, or related
7 fees under any of the Program Policies could result in one or more of the Insurance Carriers increasing
8 future insurance premiums, declining to renew the Program Policies, or refusing to enter into new
9 insurance agreements with the Debtor. If the Program Policies lapse without renewal, the Debtor could
10 be exposed to substantial liability for first-party property claims and third-party liability claims, to the
11 detriment of all parties in interest in these Chapter 11 Cases.

12 75. For all the foregoing reasons the Debtor respectfully submits that interim and final
13 authority to maintain the Insurance Program, including payment of Insurance Obligations, is essential to
14 preserving the Debtor's operations for the benefit of all of its creditors, employees, parishioners, and other
15 parties in interest.

16 C. **There is Cause to Authorize the Debtor's Financial Institutions to Honor Checks**
17 **and Transfers Related to the Insurance Program**

18 76. In the ordinary course of its operations, the Debtor draws upon funds in its bank accounts
19 to satisfy the Insurance Obligations. For all the reasons set forth above, and to avoid any risk of
20 interruption in coverage, the Debtor requests that the Court authorize the banks at which the Debtor
21 maintains its bank accounts to honor all electronic funds transfers requested by the Debtor, as well as any
22 checks issued by the Debtor, related to the Insurance Obligations. The Debtor also requests authority to
23 initiate new electronic funds transfers or issue new postpetition checks to replace any transfer requests or
24 checks for Insurance Obligations that are dishonored or not processed as a result of the commencement of
25 this Bankruptcy Case.

1 2000bb-2000bb-4), the church autonomy doctrine, charitable trust law, California trust law, and the
2 Debtor's rights under any insurance policies and to proceeds thereof, and to object to disclosure of
3 information and contend that certain assets discussed in this Motion are not property of the estate.

4
5 **VII.**
NOTICE

6 81. Notice of this Motion will be provided to (i) the Office of the U.S. Trustee for Region 17;
7 (ii) the Debtor's 20 largest unsecured creditors; (iii) the Office of the California Attorney General; (iv) the
8 Insurance Carriers; (v) counsel for RCC; and (vi) those persons who have formally appeared in this
9 Chapter 11 Case and requested service pursuant to Bankruptcy Rule 2002. Based on the urgency of the
10 circumstances surrounding this Motion and the nature of the relief requested herein, the Debtor
11 respectfully submits that no further notice is required.

12
13 **VIII.**
CONCLUSION

14 82. WHEREFORE, the Debtor requests that the Court enter interim and final orders
15 authorizing and approving the continued Insurance Program, including payment of prepetition obligations
16 associated therewith, and authorizing the Debtor to enter into further insurance agreements in the ordinary
17 course of business; and granting any such other relief as it deems just and appropriate.

18 DATED: May 8, 2023

FOLEY & LARDNER LLP

Jeffrey R. Blease
Thomas F. Carlucci
Shane J. Moses
Emil P. Khatchatourian
Ann Marie Uetz
Matthew D. Lee

/s/ Thomas F. Carlucci

THOMAS F. CARLUCCI

*Proposed Counsel for the Debtor
and Debtor in Possession*

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28 DEBTOR'S MOTION TO MAINTAIN INSURANCE PROGRAM

Exhibit A

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16 *Proposed Counsel for the Debtor
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17 **UNITED STATES BANKRUPTCY COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 **OAKLAND DIVISION**

20 In re:

21 THE ROMAN CATHOLIC BISHOP OF
22 OAKLAND, a California corporation sole,

23 Debtor.

Case No. 23-40523

Chapter 11

**[PROPOSED] INTERIM ORDER
AUTHORIZING THE DEBTOR TO (I)
CONTINUE EXISTING INSURANCE
COVERAGE AND SATISFY OBLIGATIONS
RELATED THERETO, AND (II) RENEW,
AMEND, SUPPLEMENT, EXTEND OR
PURCHASE INSURANCE POLICIES IN
THE ORDINARY COURSE OF BUSINESS**

Judge: Hon. William J. Lafferty

Date: TBD

Time: TBD

Place: United States Bankruptcy Court
1300 Clay Street
Courtroom 220
Oakland, CA 94612

1 Upon the Debtor's Motion For Interim and Final Orders Authorizing the Debtor to (I) Continue
2 Existing Insurance Coverage and Satisfy Obligations Related Thereto, and (II) Renew, Amend,
3 Supplement, Extend or Purchase Insurance Policies in the Ordinary Course of Business, dated May 8,
4 2023 (the "Insurance Motion"),¹ filed by the Roman Catholic Bishop of Oakland, a California corporation
5 sole, and the debtor and debtor in possession (the "Debtor" or "RCBO") in the above-captioned chapter
6 11 bankruptcy case (the "Chapter 11 Case" or the "Bankruptcy Case") for entry of interim and final orders
7 authorizing the Debtor to (i) continue insurance coverage entered into prepetition; (ii) satisfy obligations
8 related thereto whether prepetition or postpetition; (iii) pay brokerage fees and related fees incurred in
9 connection with its insurance program; (iv) maintain its self-insurance program and pay costs related
10 thereto; and (v) renew, amend, supplement, extend, or purchase insurance policies and related agreements
11 as may be required in the ordinary course of business during this Bankruptcy Case; the Court having
12 reviewed and considered the Insurance Motion, the First Day Declaration, all other filings in support of
13 any opposition to the Insurance Motion, and the arguments made at the interim hearing on the Insurance
14 Motion; the Court finding that it has jurisdiction over this matter, that venue in this Court is proper, and
15 that notice of the Insurance Motion and the interim hearing thereon was reasonable and sufficient under
16 the circumstances for the granting of interim relief; the Court finding that there is good cause for entry of
17 an immediate interim order pursuant to Fed. R. Bankr. P. 6003, and that ample cause exists to grant a
18 waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) for the entry of an interim order granting
19 the Insurance Motion; and the Court further finding that the relief requested in the Insurance Motion is in
20 the best interests of the Debtor, its creditors, and other parties in interest; and after due deliberation and
21 good cause appearing,

22 **IT IS HEREBY ORDERED THAT:**

- 23 1. The Insurance Motion is GRANTED on an interim basis as set forth herein.
- 24 2. The Debtor is authorized, but not directed, on an interim basis, to maintain and continue
25 its Insurance Program, and, in its discretion and business judgment, pay and honor all Insurance
26 Obligations in the ordinary course of business, including without limitation amounts that are or become

27 _____
28 ¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Insurance Motion.

1 due and owing on account of the Program Policies, the Premium Financing Agreement, any SIR or
2 Deductible costs, Self-Insured Coverages obligations, TPA Fees, and Brokerage Fees.

3 3. The Debtor is authorized, but not directed, to renew, amend, supplement, extend, or
4 purchase insurance policies, as may be required in the ordinary course of business in the Debtor's sole
5 discretion, and enter into new premium finance agreements in connection with such insurance policies, so
6 that its insurance coverage can be maintained without interruption during the pendency of this Bankruptcy
7 Case. The Debtor is further authorized, but not directed, to renew, amend, supplement, extend, its
8 agreements with its Insurance Broker and other service providers necessary to the Insurance Program,
9 including the TPA Agreement and the Allocation Services Agreement, as may be required in the ordinary
10 course of business in the Debtor's discretion and business judgment.

11 4. The Debtor's banks and financial institutions are authorized and directed to honor all
12 checks, electronic payment requests, or other withdrawals for amounts representing payments or
13 reimbursements for Insurance Obligations, whether for prepetition or postpetition amounts accrued. Such
14 banks and financial institutions are authorized to rely on the Debtor's designation of any particular check
15 or other payment request as being authorized by this Order.

16 5. The Debtor is authorized to issue postpetition checks or electronic payments in replacement
17 of any checks or electronic payment requests for Insurance Obligations that are dishonored as a
18 consequence of this Bankruptcy Case.

19 6. Nothing in this Order shall be construed as: (a) an admission regarding the validity of any
20 prepetition claim against the Debtor; (b) a promise or requirement to pay any prepetition claim; (c) a
21 request or authorization to assume any prepetition executory contract; (d) a waiver of the Debtor's, or any
22 estate representative's, right to dispute any claim on any grounds; or (e) otherwise a waiver of the Debtor's
23 rights under the Bankruptcy Code or other applicable law.

24 7. This Order shall be immediately effective and enforceable upon entry.

25 8. A final hearing on the Insurance Motion shall be held on [_____, 2023] at ___:
26 __.m.] (Prevailing Pacific Time). Any objections to the granting of the relief requested in the Insurance
27 Motion on a final basis shall be filed not later than [_____, 2023].

Exhibit B

1 **FOLEY & LARDNER LLP**

2 Jeffrey R. Blease (CA Bar. No. 134933)

3 Tel: (617) 226-3155; jblease@foley.com

4 Thomas F. Carlucci (CA Bar No. 135767)

5 Tel: (415) 984-9824; tcarlucci@foley.com

6 Shane J. Moses (CA Bar No. 250533)

7 Tel: (415) 438-6404; smoses@foley.com

8 Emil P. Khatchatourian (CA Bar No. 265290)

9 Tel: (312) 832-5156; ekhatchatourian@foley.com

10 Ann Marie Uetz (pro hac vice application pending)

11 Tel: (313) 234-7114; auetz@foley.com

12 Matthew D. Lee (pro hac vice application pending)

13 Tel: (608) 258-4203; mdlee@foley.com

14 555 California Street, Suite 1700

15 San Francisco, CA 94104-1520

16 *Proposed Counsel for the Debtor
and Debtor in Possession*

17 **UNITED STATES BANKRUPTCY COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 **OAKLAND DIVISION**

20 In re:

21 THE ROMAN CATHOLIC BISHOP OF
22 OAKLAND, a California corporation sole,

23 Debtor.

Case No. 23-40523

Chapter 11

**[PROPOSED] FINAL ORDER
AUTHORIZING THE DEBTOR TO (I)
CONTINUE EXISTING INSURANCE
COVERAGE AND SATISFY OBLIGATIONS
RELATED THERETO, AND (II) RENEW,
AMEND, SUPPLEMENT, EXTEND OR
PURCHASE INSURANCE POLICIES IN
THE ORDINARY COURSE OF BUSINESS**

Judge: Hon. William J. Lafferty

Date: TBD

Time: TBD

Place: United States Bankruptcy Court
1300 Clay Street
Courtroom 220
Oakland, CA 94612

1 Upon the Debtor's Motion For Interim and Final Orders Authorizing the Debtor to (I) Continue
2 Existing Insurance Coverage and Satisfy Obligations Related Thereto, and (II) Renew, Amend,
3 Supplement, Extend or Purchase Insurance Policies in the Ordinary Course of Business, dated May 8,
4 2023 (the "Insurance Motion"),¹ filed by the Roman Catholic Bishop of Oakland, a California corporation
5 sole, and the debtor and debtor in possession (the "Debtor" or "RCBO") in the above-captioned chapter
6 11 bankruptcy case (the "Chapter 11 Case" or the "Bankruptcy Case") for entry of interim and final orders
7 authorizing the Debtor to (i) continue insurance coverage entered into prepetition; (ii) satisfy obligations
8 related thereto whether prepetition or postpetition; (iii) pay brokerage fees and related fees incurred in
9 connection with its insurance program; (iv) maintain its self-insurance program and pay costs related
10 thereto; and (v) renew, amend, supplement, extend, or purchase insurance policies and related agreements
11 as may be required in the ordinary course of business during this Bankruptcy Case; the Court having
12 reviewed and considered the Insurance Motion, the First Day Declaration, all other filings in support of
13 any opposition to the Insurance Motion, and the arguments made at the interim and final hearings on the
14 Insurance Motion; the Court finding that it has jurisdiction over this matter, that venue in this Court is
15 proper, and that notice of the Insurance Motion and the interim and final hearings thereon was reasonable
16 and sufficient under the circumstances for the granting of interim and final relief; the Court finding that
17 ample cause exists to grant a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) for the entry
18 of an interim and final order granting the Insurance Motion; and the Court further finding that the relief
19 requested in the Insurance Motion is in the best interests of the Debtor, its creditors, and other parties in
20 interest; and after due deliberation and good cause appearing,

21 **IT IS HEREBY ORDERED THAT:**

- 22 1. The Insurance Motion is granted on a final basis.
- 23 2. The Debtor is authorized, but not directed, to maintain and continue its Insurance Program,
24 and, in its discretion and business judgment, pay and honor all Insurance Obligations in the ordinary course
25 of business, including without limitation amounts that are or become due and owing on account of the
26

27 _____
28 ¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Insurance Motion.

1 Program Policies, the Premium Financing Agreement, any SIR or Deductible costs, Self-Insured
2 Coverages obligations, TPA Fees, and Brokerage Fees.

3 3. The Debtor is authorized, but not directed, to renew, amend, supplement, extend, or
4 purchase insurance policies, as may be required in the ordinary course of business in the Debtor's sole
5 discretion, and enter into new premium finance agreements in connection with such insurance policies, so
6 that its insurance coverage can be maintained without interruption during the pendency of this Bankruptcy
7 Case. The Debtor is further authorized, but not directed, to renew, amend, supplement, extend, its
8 agreements with its Insurance Broker and other service providers necessary to the Insurance Program,
9 including the TPA Agreement and the Allocation Services Agreement, as may be required in the ordinary
10 course of business in the Debtor's discretion and business judgment.

11 4. The Debtor's banks and financial institutions are authorized and directed to honor all
12 checks, electronic payment requests, or other withdrawals for amounts representing payments or
13 reimbursements for Insurance Obligations, whether for prepetition or postpetition amounts accrued. Such
14 banks and financial institutions are authorized to rely on the Debtor's designation of any particular check
15 or other payment request as being authorized by this Order.

16 5. The Debtor is authorized to issue postpetition checks or electronic payments in replacement
17 of any checks or electronic payment requests for Insurance Obligations that are dishonored as a
18 consequence of this Bankruptcy Case.

19 6. Nothing in this Order shall be construed as: (a) an admission regarding the validity of any
20 prepetition claim against the Debtor; (b) a promise or requirement to pay any prepetition claim; (c) a
21 request or authorization to assume any prepetition executory contract; (d) a waiver of the Debtor's, or any
22 estate representative's, right to dispute any claim on any grounds; or (e) otherwise a waiver of the Debtor's
23 rights under the Bankruptcy Code or other applicable law.

24 7. This Order shall be immediately effective and enforceable upon entry.

25 8. The Debtor is authorized to take all actions necessary or appropriate to effectuate the relief
26 granted in this Final Order.

Exhibit C

Project Sole
Insurance Policy Exhibit

Policy Coverage	Insurance Carrier(s)	Policy / Acct. Number	SIR / Deductible	Financed	Policy Term
Liability \$750k in excess of \$250k SIR	The National Catholic Risk Retention Group, Inc.	RRG1072-04	\$250,000 per Claim / Occurrence	Yes	7/1/22 - 7/1/23
Excess Liability \$14M in excess of \$1M	The National Catholic Risk Retention Group, Inc.	FM1072-04	Excess Layer	Yes	7/1/22 - 7/1/23
Excess Liability \$10M in excess of \$15M	Allied World National Assurance Co.	0310-7853	Excess Layer	Yes	7/1/22 - 7/1/23
Excess Liability \$10M in excess of \$25M	Lexington Ins. Co.	18303282	Excess Layer	Yes	7/1/22 - 7/1/23
Excess Liability \$10M in excess of \$35M	Liberty Surplus Ins. Corp.	1000249490-06	Excess Layer	Yes	7/1/22 - 7/1/23
Property All Risk	Church Mutual Ins. Co., S.I.	0500056-13-421781	\$100,000 per Occurrence	No	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Underwriters at Lloyd's, London	B1262PW0403022	EQ: 5% of value, min \$100,000/ Flood: \$100,000. Per Occurrence	Yes	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Underwriters at Lloyd's, London	B1262PW0403122		Yes	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Underwriters at Lloyd's, London	B1262PW0174422		Yes	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Underwriters at Lloyd's, London	B1262PW0474322		Yes	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Underwriters at Lloyd's, London	B1262PW0475722		Yes	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Endurance American Specialty Ins. Co.	ESP3000375105		Yes	7/1/22 - 7/1/23
Property DIC (Earthquake and Flood)	Westchester Surplus Lines Ins. Co.	I11175181003		Yes	7/1/22 - 7/1/23
Property Earthquake - Alameda County	Fair American Select Ins. Co.	NPU-6000036-01		N/A (Parametric Analysis)	Yes
Property Earthquake - Contra Costa	Fair American Select Ins. Co.	NPU-6000037-01	N/A (Parametric Analysis)	Yes	7/1/22 - 7/1/23
Equipment Breakdown	Travelers Property Casualty Co. of America	BME1-993K4941-TIL	\$10,000 per Occurrence	Yes	7/1/22 - 7/1/23
Fiduciary Liability (Employee Benefit Plans)	Hudson Insurance Company (Euclid Fiduciary)	SFD31211340-03	\$50,000 per Claim	Yes	7/1/22 - 7/1/23
Crime Loss	The Hanover Ins. Co.	BDJ848454601	\$0 - \$75,000 per Occurrence	No	7/1/20 - 7/1/23
Cyber Liability	Houston Casualty Co.	H21NGP208999-01	\$100,000 per Claim	Yes	7/1/22 - 7/1/23
Employed Lawyers Professional Liability	Landmark American Ins. Co.	LHR846471	\$5,000 per Claim	Yes	7/1/22 - 7/1/23
Blanket Accident Insurance	National Union Fire Ins. Co. of Pittsburg, PA	SRG 0009150385	No Deductible	No	9/1/22 - 9/1/23
Blanket Accident Insurance	Markel Insurance Company	MAR11047	Medical Expense: \$25	No	9/1/22 - 9/1/23
Workers' Compensation - Employees	CAPS-SIG	5414	N/A	No	1/1/23 - 12/31/23
Workers' Compensation - Volunteers	Meyers-Toohy	N/A	N/A	No	1/1/23 - 12/31/23
RETA Trust (Medical, Dental, Vision)	The RETA Trust	0007219-0003-000	N/A	No	1/1/23 - 12/31/23
Prudential (ST/LT Life and AD&D)	Prudential Insurance Company of America	53962	N/A	No	1/1/23 - 12/31/23

Exhibit D

CLIENT SERVICES AGREEMENT

This Client Services Agreement (this "**Agreement**") is made and entered into as of the 1st day of July, 2021 (the "**Effective Date**") by and between Roman Catholic Bishop of Oakland, a California Corporation, Sole ("**Client**"), and Arthur J. Gallagher & Co. Insurance Brokers of California, Inc., a California corporation, and its licensed brokerage affiliates ("**Gallagher**"). Client and Gallagher shall each be referred to herein as a "**Party**" and collectively as the "**Parties**."

WHEREAS, Gallagher is a global insurance brokerage and risk management services firm, and Client desires to retain Gallagher to provide certain services, as further described on Exhibit A attached hereto (collectively, the "**Services**").

NOW, THEREFORE, in consideration of the mutual promises contained herein, Gallagher and Client hereby agree as follows:

I. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and continue for a term of one (1) year. This Agreement shall automatically renew on the first anniversary of the Effective Date and annually thereafter for consecutive additional periods of one (1) year each. This Agreement may be terminated by either Party at any time upon thirty (30) days' prior written notice. In the event of any such termination, Gallagher will work with Client during such 30-day period to transition its account as directed.

II. SERVICES

Gallagher will provide the Services for Client as set forth on Exhibit A and incorporated herein, which Exhibit A may be amended from time to time as agreed upon in writing by the Parties. For Services that specifically include insurance placement by Gallagher as the broker, Client hereby authorizes Gallagher to represent and assist Client in all discussions and transactions with insurance companies relating to the lines of insurance set forth on Exhibit A when acting as Client's insurance broker, provided that Gallagher shall not place any insurance on behalf of Client unless so authorized by Client in writing. In addition, Services that include the placement of insurance coverage require the following:

A. Client shall provide Gallagher with all information and documentation that may be relevant to the applicable risks that Client would like to insure, as requested by Gallagher and/or underwriters from which Gallagher intends to secure quotes. This information shall include any facts material to a fair assessment of the risk by underwriters, including risk exposures and loss experience, and shall be updated as information changes or is discovered after inception of coverage. Client's failure to fully and completely disclose all such information could result in a carrier declining coverage for a specific loss or voiding Client's insurance coverage altogether.

B. Gallagher will consult with Client regarding the terms of the insurance quotes received, and Client shall have sole discretion in the selection of the ultimate insurance markets and policies chosen, as well as any other decisions involving Client's risk management, risk transfer and/or loss prevention needs. Gallagher will use reasonable efforts to secure insurance coverages on Client's behalf and as directed by Client. Client must read all coverage proposals and policies carefully, as actual coverage is determined by the applicable policy language. Gallagher will provide guidance to Client regarding Client's policy or coverage inquiries. In the event an insurer cancels or refuses to issue a particular policy, Gallagher will use reasonable efforts to obtain replacement coverage from another insurer.

C. Client is responsible for notifying applicable insurance companies directly in connection with any claims, demands, suits, notices of potential claims or any other matters in accordance with the terms and conditions of Client's policies. Upon request, Gallagher will assist Client in determining applicable claim reporting requirements.

III. COMPENSATION, TAXES AND FEES

A. Client shall pay Gallagher fees for the Services set forth on Exhibit A. Where permitted, the Services may include fees in lieu of or in addition to commission for placement of insurance. If Gallagher receives fees for insurance placement, the policy(ies) will be listed in Exhibit A, along with the fee for that insurance

placement. Fees for post insurance placement Services may also be included in Exhibit A.

B. Gallagher's fees under this Agreement shall be fully earned on the Effective Date (and any anniversary thereof). All amounts shall be due and payable to Gallagher in U.S. dollars, within thirty (30) days after Client's receipt of the applicable invoice. Any amounts not paid when due will accrue interest at the rate of one and one-half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is less. Client shall inform Gallagher in the event that Client's business operations change substantially, including the applicable risks insured. Under such circumstances, Client and Gallagher will negotiate in good faith to adjust the amount of commission and/or fees to be paid to Gallagher hereunder.

C. Where applicable, insurance coverage placements and other Services provided by Gallagher may require the payment of federal excise taxes, surplus lines taxes, stamping or other fees to the Internal Revenue Service, various State(s) departments of revenue, state regulators, boards or associations. In such cases, Client is responsible for the payment of such taxes and/or fees, which Gallagher will separately identify on related invoices. Under no circumstances will these taxes or other related fees or charges be offset against fees or commissions due to Gallagher hereunder.

IV. ADDITIONAL COMPENSATION AND FEES

A. In addition to the fees and/or commissions set forth in Exhibit A or otherwise described herein, Gallagher may also receive interest or other investment income on funds temporarily held by it, such as premiums or return premiums. Other parties, such as excess and surplus lines brokers, wholesalers, reinsurance intermediaries, underwriting managers, captive managers and similar parties, some of which may be owned in whole or in part by Gallagher's corporate parent, may earn and retain usual and customary commissions and fees in the course of providing insurance products to clients.

B. Any compensation that Gallagher receives from insurance carriers may differ depending on the market and the insurance product placed on Client's behalf. Gallagher may receive additional compensation from insurance carriers in the form of contingent and supplemental commissions, bonus commissions, overrides or expense reimbursements. Any such fees or commission will not constitute compensation to Gallagher per Section III above.

C. Client is responsible for payment of premiums for all insurance placed by Gallagher on its behalf. If any amount is not paid in full when due, including premium payments to insurance companies or premium finance companies, such nonpayment will constitute a material breach of this Agreement that will allow Gallagher to immediately terminate this Agreement upon written notice to Client, at its sole option. Further, the applicable insurance carrier may terminate the associated coverage for nonpayment. In addition, and not in lieu of the right to terminate, Gallagher reserves the right to apply return premiums or any other payment received by Gallagher on Client's behalf to any amounts owed by Client to Gallagher unless, and solely to the extent that, such return premiums or other payments are disputed by Client.

V. CONFIDENTIALITY & DATA PRIVACY

A. As used in this Agreement, Confidential Information means any nonpublic, proprietary or personal data and information furnished by either Party or its agents or representatives to the other Party or its agents and representatives, whenever furnished and regardless of the manner or media in which such information is furnished, which the receiving Party knows or reasonably should know to be confidential. Each Party shall treat Confidential Information as confidential and only use it in the performance of its obligations under this Agreement.

B. The Parties acknowledge that Confidential Information includes personal data provided to Gallagher by Client for the benefit of Client and/or its employees to facilitate the placement of insurance and/or the Services set forth in Exhibit A. Both Parties also agree that the Confidential Information may include information that alone, or in combination with other information, uniquely identifies an individual. Client agrees that Gallagher is permitted to disclose and transfer Client's Confidential Information to Gallagher's affiliates, agents or vendors that have a need to know the Confidential Information in connection with the Services provided under this Agreement (including insurance carriers, as necessary, for quoting and/or placing insurance coverages). In addition, Gallagher may also utilize anonymized/de-identified Client data in connection with data analytics, service enhancement initiatives and similar business purposes. Either Party may also disclose such information to the extent required to comply with applicable laws or regulations or the order of any court or

tribunal. Gallagher has established security controls to protect Client confidential information from unauthorized use or disclosure. For additional information, please review Gallagher's Privacy Policy located at <https://www.ajg.com/privacy-policy/>.

C. Both Gallagher and Client agree to comply with all state and federal laws, rules, and orders that relate to privacy and data protection which are, or which in the future may be, applicable to Confidential Information, the Services or the performance of obligations under this Agreement. Upon request, Gallagher will cooperate with Client pursuant to applicable law(s) to comply with requests from individuals regarding their personal information.

VI. DISPUTE RESOLUTION

A. In the event a dispute between the Parties arising out of or relating to this Agreement or the relationship created by this Agreement ("**Dispute**"), the Parties agree to resolve that Dispute by mediation. If mediation fails to resolve the Dispute, the Parties agree to binding arbitration. The Parties waive any and all rights they may have to commence litigation in court to resolve a Dispute, and specifically waive any and all rights to pursue relief by class action or mass action in court or through arbitration. For the avoidance of doubt, consistent with the provisions that follow, the Parties do not waive the ability to seek a court order of injunction in aid of the mediation and arbitration required by this Agreement.

B. A Party wishing to assert a Dispute shall do so by providing a written notice ("**Notice**") of the claim to the American Arbitration Association ("**AAA**") in accordance with its Commercial Arbitration Rules and Mediation Procedures, unless specifically excluded under Section VI.A of this Agreement. All Dispute resolutions shall take place in Chicago, IL, unless otherwise agreed by the Parties. The Parties will equally divide all costs of the mediation and arbitration proceedings and will each pay their own attorney fees. All matters will be before neutral, impartial and disinterested mediator or arbitrator(s) that have at least 20 years' experience in commercial and insurance coverage disputes, which may be based in legal practice, insurance company or insurance brokerage practice, or a combination thereof.

C. Mediation will occur within sixty (60) days of filing the Notice with the AAA. Mediation results will be reduced to a Memorandum of Understanding signed by both Parties and the mediator. A Dispute that is not resolved in mediation will commence to binding arbitration. For Disputes in excess of \$500,000, either Party may elect to have the Dispute heard by a panel of three (3) arbitrators. The award of the arbitrator(s) shall be accompanied by a reasoned opinion prepared and signed by the arbitrator(s). Except as may be required by law, neither a Party nor a mediator or arbitrator may disclose the existence, content or results of any Dispute or its dispute resolution proceeding without the prior written consent of both Parties.

VII. LIABILITY LIMITATIONS

Gallagher's liability to Client arising from any acts or omissions of Gallagher shall not exceed \$20 million in the aggregate. Without limiting the foregoing, each Party shall only be liable for actual damages incurred by the other Party, and shall not be liable for any indirect, special, exemplary, consequential, reliance, punitive damages or for any attorneys' fees other than as described in Section VIII.A below (whether incurred in a dispute or an action against the other, or as alleged damages that any Party incurred in any insurance coverage dispute, or otherwise). No claim or cause of action, regardless of form (tort, contract, statutory, or otherwise), arising out of, relating to or in any way connected with this Agreement or any Services provided hereunder may be brought by either Party any later than two (2) years after the accrual of such claim or cause of action.

VIII. MISCELLANEOUS

A. Indemnification. Each Party agrees to defend, indemnify and hold the other Party and its affiliates and their respective directors, officers, employees and agents harmless from any and all losses, liabilities, exposures, damages and all related costs and expenses, including reasonable legal fees, to the extent arising from or relating to any third party claims, demands, suits, allegations, or causes or threats of action based on the indemnifying Party's: (i) breach of any representation, warranty or covenant made by such Party hereunder, or (ii) grossly negligent acts or omissions or intentional misconduct; provided, however, that the indemnifying Party's indemnification obligations hereunder shall be reduced to the extent that such losses and damages arise from the acts or omissions of the other Party or its employees or agents.

B. Advisory Services. The Services provided by Gallagher, its employees and affiliated companies do not constitute legal or tax advice. Client must consult with its own legal and financial advisors to become fully apprised of any legal or financial implications to its business.

C. Assignment. This Agreement shall apply to and bind the successors and assigns of the Parties hereto, including, in the event of a Party's insolvency, debtors-in-possession and any appointed trustee or administrator. This Agreement shall not be assignable by either Party, except with the prior written consent of the other Party; provided, however, that either Party may assign this Agreement to an affiliate or in the event of a merger or sale, provided the assignee is willing and able to assume such Party's obligations hereunder.

D. Independent Contractor. Gallagher is engaged to perform Services as an independent contractor of Client and not as an employee or agent of Client, and will not be operating in a fiduciary capacity.

E. Governing Law & Venue. This Agreement and any Dispute relating to or arising out of this Agreement shall be governed by the laws of the State of Illinois, without regard to its conflict of law rules. Any litigation under Section VI.A of this Agreement shall be brought in federal or state court in Cook County, Illinois.

F. Force Majeure. Neither Party shall be liable to the other for any delay or failure to perform any of its obligations under this Agreement (other than payment obligations) as a result of flood, earthquake, storm, other act of God, fire, derailment, accident, labor dispute, explosion, war, act of terrorism, sabotage, insurrection, riot, embargo, court injunction or order, act of government or governmental agency or other similar cause beyond its reasonable control.

G. Counterparts. This Agreement may be executed in multiple counterparts (including by scanned image or electronic signature), each of which shall be considered one and the same agreement, and shall become effective when signed by each of the Parties hereto and delivered to the other Party.

H. Warranties. Except as expressly set forth in this Agreement, Gallagher makes no other warranties of any kind with respect to the Services, including, without limitation, warranties that may be implied from a course of performance, dealing or trade usage.

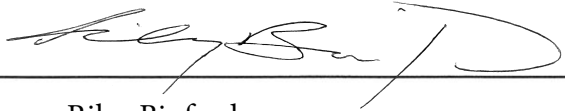
I. Severability. If a court/arbitrator of competent jurisdiction determines that any provision of this Agreement is void or unenforceable, that provision will be severed from this Agreement, and the court/arbitrator will replace it with a valid and enforceable provision that most closely approximates the intent of the Parties, and the remainder of this Agreement will otherwise remain in full force and effect.

J. Entire Agreement. This Agreement and the exhibits attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all prior negotiations, agreements and understandings as to such matters.


K. Non-Waiver. The Parties agree that any delay or forbearance by either Party in exercising any right or remedy under this Agreement or otherwise afforded by applicable law shall not be a waiver of or preclude the exercise of any such right or remedy. No change, waiver or discharge hereof shall be valid unless in writing and executed by the Party against whom such change, waiver or discharge is sought to be enforced.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

**ARTHUR J. GALLAGHER & CO.
INSURANCE BROKERS OF CALIFORNIA, INC.**

By: 
Name: Riley Binford
Title: Area President

ROMAN CATHOLIC BISHOP OF OAKLAND

By: 
Name: Paul Bongiovanni
Title: CFO

0726293
California Broker License No.

In case of any questions or problems concerning broker fees or insurance, contact the California Department of Insurance at 1-800-927-HELP.

EXHIBIT A

The following outlines Services provided by Gallagher over the term of this Agreement:

- Use its best efforts to secure the following lines of insurance coverage on Client's behalf: Property, Difference in Conditions, General Liability, Excess Liability, Fiduciary Liability, Cyber Liability
- Consult with **The Roman Catholic Bishop of Oakland** to formulate a marketing strategy that focuses on delivering a cost-effective risk management strategy and structure based upon current market conditions.
- Work with **The Roman Catholic Bishop of Oakland** to produce comprehensive underwriting data and criteria for insurance carrier negotiations.
- Formally present coverage submissions to agreed upon insurance carrier(s) and negotiate terms on behalf of **The Roman Catholic Bishop of Oakland**.
- Summarize the results of executing the marketing strategy developed with **The Roman Catholic Bishop of Oakland** and communicate program recommendations.
- Provide consultation to **The Roman Catholic Bishop of Oakland** on exposures, existing coverage, and the desirability and/or feasibility of potential program changes when recommended by Gallagher or when requested by the client.
- Request change endorsements, when requested by the client or when otherwise necessary, ensuring accuracy and delivery in a timely manner.
- Administration of insurance program, including policy review and issuance, invoicing, coordination and/or issuance of required documentation, i.e., automobile identification cards, certificates of insurance and other program administration, as required by the client.
- Review accounting and billing data received from insurance markets on client's behalf to ensure accuracy.
- Provide location billing, rating and allocation services for **Roman Catholic Bishop of Oakland**.
- Review client's contracts solely to determine if additional risk exposures are present.
- Provide loss information and analysis as required.
- Review insurance contracts to ensure accuracy of all agreed terms, conditions, coverages and limits.

Fees for Services: \$19,000

Signature

Paul Borginanni, CFO

Date

7/22/2021