

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

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

**APPLICATION OF THE DEBTORS PURSUANT TO 11 U.S.C.
§§ 105(A) AND 363(B) TO (I) RETAIN ALVAREZ & MARSAL NORTH
AMERICA, LLC TO PROVIDE CERTAIN ADDITIONAL PERSONNEL AND
(II) DESIGNATE JONATHAN TIBUS AS CHIEF RESTRUCTURING
OFFICER FOR THE DEBTORS *NUNC PRO TUNC* TO THE PETITION DATE**

The above-captioned debtors and debtors in possession (the “Debtors”) file this *Application of the Debtors Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to (I) Retain Alvarez & Marsal North America, LLC to Provide Certain Additional Personnel and (II) Designate Jonathan Tibus as Chief Restructuring Officer for the Debtors Nunc Pro Tunc to the Petition Date* (the “Application”). In support of the Application, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

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

2. The bases for the relief requested herein are sections 105(a), 363(b)(1), 503, 507(a)(8), 541(d), 1107(a), and 1108 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

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

BACKGROUND

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

4. The factual background relating to the Debtors’ commencement of these cases is set forth in detail in the *Declaration of Jonathan M. Tibus in Support of Chapter 11 Petitions and First Day Pleadings* [ECF No. 18] (the “First Day Declaration”) filed on the Petition Date and incorporated herein by reference.

RELIEF REQUESTED

5. By this Application, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors request entry of an order, substantially in the form attached hereto as **Exhibit C**, authorizing, but not directing the Debtors to: (i) retain Alvarez & Marsal North America, LLC (“A&M”) to provide certain Additional Personnel (as defined below) to the Debtors; and (ii) designate Jonathan Tibus as the Debtors’ Chief Restructuring Officer (“CRO”), *nunc pro tunc* to the Petition Date.

6. Jonathan Tibus will serve as the CRO to assist the Debtors with these chapter 11 cases (the “Chapter 11 Cases”), as further described below. A&M will provide additional employees of its and its professional service provider affiliates (all of which are wholly owned by its parent company and employees) (“Additional Personnel”, collectively with the CRO, the

“Engagement Personnel”) as necessary to assist the CRO in the execution of the duties set forth more fully herein.

RETENTION OF A&M

7. In consideration of the size and complexity of their business, as well as the exigencies of the circumstances, the Debtors have determined that the services of experienced restructuring managers will substantially enhance their attempts to maximize the value of their estates. The Engagement Personnel are well qualified to act on the Debtors’ behalf given their extensive knowledge and expertise with respect to chapter 11 proceedings.

8. The Engagement Personnel specialize in interim management, turnaround consulting, operational due diligence, creditor advisory services, and financial and operational restructuring. A&M’s debtor advisory services have included a wide range of activities targeted at stabilizing and improving a company’s financial position, including developing or validating forecasts and business plans and related assessments of a business’s strategic position; monitoring and managing cash, cash flow, and supplier relationships; assessing and recommending cost reduction strategies; and designing and negotiating financial restructuring packages.

9. Mr. Tibus is a Managing Director of A&M. He has more than twenty-six years of diversified business experience in restructuring and financial management. He has extensive operational and management experience and has advised a number of clients, including public and privately held companies, on business plan development and evaluation, liquidity improvement efforts, and asset distributions.

10. Notably, Mr. Tibus has served as chief executive officer to Red Lobster Management, LLC, Kona Grill, Inc., RealMex Restaurants, Inc., Ignite Restaurant Group, and Last Call Guarantor and its affiliates, and as chief operating officer to Max & Erma’s. He has served as chief restructuring officer to several restaurant and retail chains, including Krystal, Quiznos, and

S&K Menswear. He also has been retained as financial advisor to a number of restaurant companies or their creditors in the fine dining, casual dining, and quick-service segments. These roles involved negotiations with franchisors, franchisees of nationally known brands, and non-franchised multi-unit operations.

11. In addition, A&M and the CRO are intimately familiar with the Debtors' business, financial affairs, and capital structure. Since A&M's initial engagement by OTB Holding LLC on January 9, 2025, the Engagement Personnel have worked closely with the Debtors' management and other professionals in assisting with the requirements of these Chapter 11 Cases. Consequently, the Debtors believe that A&M has developed significant relevant experience and expertise regarding the Debtors, their operations and the unique circumstances of these cases. For these reasons, A&M is both well qualified and uniquely suited to deal effectively and efficiently with matters that may arise in the context of these cases. Accordingly, the Debtors submit that the retention of A&M and the designation of Jonathan Tibus as CRO on the terms and conditions set forth herein is necessary and appropriate, is in the best interests of the Debtors' estates, creditors, and all other parties in interest, and should be granted in all respects.

SCOPE OF SERVICES

12. Subject to approval by the Court, the Debtors propose to retain A&M to provide Jonathan Tibus as CRO and to provide the Additional Personnel on the terms and conditions set forth in the engagement letter, dated January 9, 2025, attached hereto as **Exhibit A** (the "**Engagement Letter**"),² except as otherwise explicitly set forth herein or in any order granting this Application.

² The summaries of the Engagement Letter (and indemnification agreement attached thereto) contained in this Application are provided for purposes of convenience only. In the event of any inconsistency between the summaries contained herein and the terms and provisions of the Engagement Letter, the terms of the Engagement

13. Among other things, the Engagement Personnel will support the Debtors with respect to:

- (a) The Engagement Personnel in cooperation with the Chief Financial Officer (the "CFO") or other applicable officers of the Company, shall perform a financial review of the Company, including but not limited to a review and assessment of financial information that has been, and that will be, provided by the Company to its creditors, including without limitation its short and long-term projected cash flows and operating performance;
- (b) The CRO will have authority to review and approve the disbursement or transfer of any cash or amounts in the Company's accounts;
- (c) The Engagement Personnel shall assist in evaluation of the Company's current business plan and four-wall store analysis along with the preparation of a revised operating plan, cash flow forecast, and presentation of such plan and forecast as necessary;
- (d) The Engagement Personnel shall assist in identification of cost reduction and operations improvement opportunities;
- (e) The Engagement Personnel shall assist in cash management including the development and maintenance of a 26-week cash flow forecast, creation of a DIP/ Cash Collateral budget as necessary, and preparation of reports and analyses to manage cash commitments and disbursements;
- (f) The Engagement Personnel shall assist in financing issues and sales process support including assistance in preparation of reports, communications with creditors, and communication with interested parties;
- (g) The Engagement Personnel shall assist with chapter 11 preparation and case administration including pre-bankruptcy planning, first day motion preparation, development of key employee incentive plans, and other post-filing requirements;
- (h) The Engagement Personnel shall communicate with the Company's stakeholders, including but not limited to vendors, customers, employees, lenders, creditor committees, court officials, attorneys and other service providers, as required;
- (i) The Engagement Personnel shall assist the CFO and other Company engaged professionals in developing for the Board's review possible restructuring plans or strategic alternatives for maximizing the enterprise value of the Company's various business lines;

Letter shall control unless otherwise set forth herein. Capitalized terms used in such summaries but not otherwise defined herein shall have the meanings set forth in the Engagement Letter.

- (j) The CRO shall serve as the principal contact with the Company's creditors with respect to the Company's financial and operational matters; and
- (k) The Engagement Personnel shall perform such other services as requested or directed by the board of the directors (or, if applicable, the manager) of the Company (such board or manager, the "Board") or other Company personnel as authorized by the Board, and agreed to by A&M that is not duplicative of work others are performing for the Company.

14. These services are necessary to enable the Debtors to maximize the value of their estates and successfully complete their sale process.

A&M'S DISINTERESTEDNESS

15. To the best of the Debtors' knowledge, information, and belief, other than as set forth in the Declaration of Jonathan Tibus (the "Tibus Declaration"), annexed hereto as **Exhibit B**, A&M: (i) has no connection with the Debtors, their creditors, other parties in interest, or the attorneys or accountants of any of the foregoing, or the United States Trustee or any person employed in the Office of the United States Trustee; and (ii) does not hold any interest adverse to the Debtors' estates.

16. Although the Debtors submit that the retention of A&M is not governed by section 327 of the Bankruptcy Code, the Debtors attach the Tibus Declaration, which discloses, among other things, any relationship that A&M, Mr. Tibus, or any individual member of the Additional Personnel has with the Debtors, their significant creditors, or other significant parties in interest known to A&M. Based upon the Tibus Declaration, the Debtors submit that A&M is a "disinterested person" as that term is defined by section 101(14) of the Bankruptcy Code.

17. In addition, as set forth in the Tibus Declaration, if any new material facts or relationships are discovered or arise, A&M will provide the Court with a supplemental declaration.

TERMS OF RETENTION

A. Compensation

18. In accordance with the terms of the Engagement Letter, A&M will be paid by the Debtors for the services of the Engagement Personnel at its customary hourly billing rates. The current hourly billing rates for Additional Personnel, based on the position held by such Additional Personnel at A&M, are subject to the following ranges:

i.	Managing Directors	\$1,100 - \$1,575
ii.	Directors	\$850 - \$1,100
iii.	Associates	\$625 - \$825
iv.	Analysts	\$450 - \$600

Such rates and ranges shall be subject to adjustment annually at such time as A&M adjusts its rates generally.

19. In addition to compensation for professional services rendered by Engagement Personnel, A&M will seek reimbursement for reasonable and necessary expenses incurred in connection with these Chapter 11 Cases, including, but not limited to travel, lodging, meals, messenger and wireless charges. A&M's Engagement Letter also includes a flat rate of 4% of professional fees to cover otherwise unbilled items—but that fee will not be charged during these Chapter 11 Cases. In addition, A&M shall be reimbursed for the reasonable fees and expenses of its outside counsel (if any) incurred in connection with the preparation and approval of this Application. All fees and expenses due to A&M will be billed on a weekly basis, or more frequently as agreed to between A&M and the Debtors, as further set forth in the Engagement Letter.

20. In addition to the hourly compensation, A&M is eligible for incentive compensation (the “Completion Fee”) of \$500,000 upon the earlier of (x) the consummation of a Chapter 11 plan of reorganization; and (y) the sale, transfer, or other disposition of all or a substantial portion of the assets or equity of the Debtors in one or more transactions. This Court has previously authorized the retention of restructuring professionals where part of their compensation package contemplated payment of a completion fee or other similar transaction fee. *See, e.g., In re The Krystal Company, et. al.*, No. 20-61065 (PWB) (Bankr. N.D. Ga. Jan. 19, 2020) [ECF No. 137] (entering an order approving the application to retain debtors’ financial advisor, including certain “Completion Fee[s]” upon the execution or consummation of certain dispositions); *In re CarrierWeb, LLC*, No. 17-54087 (LRC) (Bankr. N.D. Ga. Mar. 6, 2017) [ECF No. 90] (entering an order approving the application to retain debtor’s financial advisor, including certain transaction fees); *In re Cagle’s Inc., Cagle’s Farms, Inc.*, No. 11-80202 (PWB) (Bankr. N.D. Ga. Oct. 19, 2011) [ECF No. 159] (entering an order authorizing the retention of debtor’s financial advisor, which included a transaction fee in connection with a possible 363 or plan sale of assets).

21. The Engagement Letter required the Debtors to remit to A&M a retainer in the amount of \$250,000 (the “Retainer”) which is to be credited against any amounts due at the termination of this engagement and returned upon the satisfaction of all obligations thereunder. A&M will only draw on the Retainer (or a portion thereof) in order to apply it to invoices that are due and payable or other amounts due under the Engagement Letter or as the Debtors may otherwise agree. The Debtors will be informed of such application of the Retainer.

B. Indemnification

22. As a material part of the consideration for which the Engagement Personnel have agreed to provide the services described herein, pursuant to the Engagement Letter (including the indemnification agreement attached to and made a part of the Engagement Letter (the “Indemnification Agreement”)), the Debtors have agreed to (a) indemnify the Engagement Personnel acting as officers to the same extent as the most favorable indemnification it extends to its officers and directors and to cover such Engagement Personnel under the Debtors’ director and officer liability policy and (b) indemnify and hold harmless A&M, its affiliates and its respective shareholders, members, managers, employees, agents, representatives, and subcontractors (collectively, the “Indemnified Parties”) under certain circumstances.³ The rights to indemnification shall survive the termination of these Chapter 11 Cases or any cases into which they may be converted.

23. The Debtors believe the indemnity provisions are a reasonable term and condition of A&M’s engagement and were, along with all terms of the Engagement Letter, negotiated by the Debtors and A&M at arm’s length and in good faith. A&M and the Debtors believe that the indemnity provisions are comparable to those indemnification provisions generally obtained by crisis management firms of similar stature to A&M and for comparable engagements, both in and

³ The Indemnification Agreement generally provides that the Debtors will indemnify and hold harmless the Indemnified Parties (as defined in the Indemnification Agreement) from and against any losses, claims, damages, liabilities, penalties, obligations, and expenses, including the costs for counsel and others in investigating, preparing, or defending any action or claim caused by, relating to, based upon, or arising out of the Indemnified Party’s acceptance of or the performance or nonperformance of their obligations under the Engagement Letter. Notwithstanding the terms of the Indemnification Agreement, the Debtors and A&M have agreed, subject to the Court’s approval of this Application, that in no event shall an Indemnified Person be indemnified or receive contribution or other payment under the Indemnification Agreement if the Debtors, their estates or the statutory committee of unsecured creditors appointed in these Chapter 11 Cases assert a claim against an Indemnified Person and the Court determines by final order that such claim arose out of the bad-faith, self-dealing, breach of fiduciary duty, if any, gross negligence or willful misconduct on the part of that or any other Indemnified Person.

out of court. The Debtors respectfully submit that the indemnification provisions contained in the Indemnification Agreement, viewed in conjunction with the other terms of A&M's proposed retention, are reasonable and in the best interests of the Debtors, their estates, and creditors in light of the fact that the Debtors require A&M's services.

FEES AND REPORTING

24. If the Court approves the relief requested herein, A&M will be retained to provide the Debtors with the Engagement Personnel and Mr. Tibus will be designated as the Debtors' CRO pursuant to section 363 of the Bankruptcy Code.

25. On a monthly basis, A&M shall file with the Court, and provide notice to the U.S. Trustee and any official committees, a report of staffing on the engagement for the previous month. Such report shall include the names and functions filled of the individuals assigned. All staffing shall be subject to review by the Court in the event an objection is filed.

26. A&M shall also file with the Court, and provide notice to the U.S. Trustee and all official committees, reports of compensation earned and expenses incurred on a quarterly basis. Such reports shall contain summary charts that describe the services provided, identify the compensation earned by each executive officer and staff employee provided, and itemize the expenses incurred. All compensation shall be subject to review by the Court in the event an objection is filed.

27. A&M shall abide by the provisions set forth in Section J of the Court's General Order No. 26-2019 (the "Complex Case Procedures") and shall receive monthly payments from the Debtors consistent with Section J; provided, however, A&M shall not be required to submit fee applications pursuant to Sections 330 and 331 of the Bankruptcy Code. Instead A&M's fees shall be reviewed at the conclusion of the case on a reasonableness standard.

28. In the ninety days prior to the Petition Date, A&M received payments totaling \$1,170,355 in the aggregate for services performed for the Debtors. A&M has applied these funds to amounts due for services rendered and expenses incurred prior to the Petition Date.

29. A precise disclosure of the amounts or credits held, if any, as of the Petition Date will be provided in A&M's first report filed regarding compensation earned and expenses incurred.

30. Given the numerous issues which the Engagement Personnel may be required to address in the performance of their services, A&M's commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for such services for engagements of this nature in an out-of-court context, as well as in chapter 11, the Debtors submit that the fee arrangements set forth in the Engagement Letter are reasonable.

APPLICABLE AUTHORITY

31. The Debtors seek approval of the employment of A&M pursuant to section 363 of the Bankruptcy Code, *nunc pro tunc* to the Petition Date. Section 363(b)(1) of the Bankruptcy Code provides in relevant part that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Further, pursuant to section 105(a) of the Bankruptcy Code, the "court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

32. Under applicable case law, in this and other circuits, if a debtor's proposed use of its assets pursuant to section 363(b) of the Bankruptcy Code represents a reasonable business judgment on the part of the debtor, such use should be approved. *See, e.g., Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983) ("The rule we adopt requires that a judge determining a §363(b) application expressly find from the evidence

presented before him at the hearing a good business reason to grant such an application.”); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct”).

33. The retention of A&M and its professionals is a sound exercise of the Debtors’ business judgment. Mr. Tibus has extensive experience as a senior officer and as an advisor for many troubled companies, including restaurant businesses experiencing financial distress. The Debtors believe that the Engagement Personnel will provide services that benefit the Debtors’ estates and creditors. In light of the foregoing, the Debtors believe that the retention of A&M is appropriate and in the best interests of the Debtors and their estates and creditors.

34. The retention of interim corporate officers and other temporary employees, therefore, is proper under section 363 of the Bankruptcy Code. This Court and others have authorized retention of officers utilizing this provision of the Bankruptcy Code on numerous occasions. *See In re Red Lobster Management LLC*, No. 24-02486-GER (Bankr. M.D. Fla. May 19, 2024); *In re AstroTurf, LLC*, No. 16-41504-PWB (Bankr. N.D. Ga. July 20, 2016); *In re Cagle’s, Inc.*, No. 11-80202 (Bankr. N.D. Ga. Nov. 28, 2011) (Bihary, J.); *In re Indalex Holdings Finance, Inc., et al.*, Case No. 09-10982 (PJW) (Bankr. D. Del. Apr. 27, 2009) [ECF No. 209]; *In re Anchor Blue Holding, Corp., et al.*, Case No. 11-10110 (PJW) (Bankr. D. Del. Feb. 4, 2011) [ECF No. 167]; *In re Berkline/Benchcraft Holdings, LLC, et al.*, Case No. 11-11369-MFW (Bankr. D. Del. May 23, 2011) [ECF No. 106]; *In re Allen Family Foods, Inc. et al.*, Case No. 11-11764 (Bankr. D. Del. July 13, 2011) [ECF No. 172]; *In re Lehman Bros. Holdings, Inc.*, Ch. 11 Case No. 08-13555 (JMP) (Bankr. S.D.N.Y. Dec. 17, 2008) [ECF No. 2278]; *In re PRC, LLC*, Ch. 11

Case No. 08-10238 (MG) (Bankr. S.D.N.Y. Feb. 27, 2008) [ECF No. 182]; *In re Bally Total Fitness of Greater N.Y., Inc.*, Ch. 11 Case No. 07-12395 (BRL) (Bankr. S.D.N.Y. Aug. 21, 2007) [ECF No. 283]; *In re Dana Corp.*, Ch. 11 Case No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 29, 2006) [ECF No. 740]; *In re Penn Traffic Co.*, Ch. 11 Case No. 03-22945 (ASH) (Bankr. S.D.N.Y. Aug. 1, 2003) [ECF No. 260]; *In re Acterna Corp.*, Ch. 11 Case No. 03-12837 (BRL) (Bankr. S.D.N.Y. July 9, 2003) [ECF No. 163]; *In re WorldCom, Inc.*, Ch. 11 Case No. 02-13533 (AJG) (Bankr. S.D.N.Y. Dec. 10, 2002) [ECF No. 2263].

35. Based upon the foregoing, the Debtors submit that the retention of A&M, and the designation of Jonathan Tibus as CRO on the terms set forth herein and in the Engagement Letter, is essential, appropriate, and in the best interest of the Debtors' estates, creditors, and other parties in interest and should be granted in these Chapter 11 Cases.

NOTICE

36. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for the Northern District of Georgia; (b) the Debtors' thirty (30) largest unsecured creditors; (c) counsel to the Debtor's prepetition lenders; (d) counsel to the Debtors' debtor-in-possession lender; (e) the Internal Revenue Service; (f) the Georgia Department of Revenue; (g) the Attorney General for the State of Georgia; (h) the United States Attorney for the Northern District of Georgia; (i) the state attorneys general for states in which the Debtors conduct business; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

CONCLUSION

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

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Date: March 6, 2025
Atlanta, Georgia

Respectfully submitted,

KING & SPALDING LLP

/s/ Jeffrey R. Dutson

Jeffrey R. Dutson

Georgia Bar No. 637106

Brooke L. Bean

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*Proposed Counsel for the Debtors in
Possession*

Exhibit A

Engagement Letter



Alvarez & Marsal Holdings, LLC
Monarch Tower
3424 Peachtree Road NE, Suite 1500
Atlanta, GA 30326
Phone: +1 404 260 4040
Fax: +1 404 260 4090

As of January 9, 2025

OTB Holding LLC
One Buckhead Plaza, Suite 425
3060 Peachtree Road NW
Atlanta, GA 30305

Dear Karl:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal North America, LLC (“A&M”) and OTB Holding LLC and its subsidiaries and their respective assigns and successors (jointly and severally, the “Company”), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between the Company and A&M (the “Agreement”).

1. Description of Services

(a) Officers. In connection with this engagement, A&M shall make available to the Company:

- (i) Jonathan Tibus to serve as the Chief Restructuring Officer (the “CRO”); and
- (ii) Upon the mutual agreement of A&M and the Company, A&M will provide additional employees of A&M and/or its affiliates and wholly-owned subsidiaries (“Additional Personnel”) as required (collectively, with the CRO, the “Engagement Personnel”), to assist the CRO in the execution of the duties set forth more fully herein.

(b) Duties.

- (i) The Engagement Personnel in cooperation with the Chief Financial Officer (the “CFO”) or other applicable officers of the Company, shall perform a financial review of the Company, including but not limited to a review and assessment of financial information that has been, and that will be, provided by the Company to its creditors, including without limitation its short and long-term projected cash flows and operating performance;
- (ii) The CRO will have authority to review and approve the disbursement or transfer of any cash or amounts in the Company’s accounts;
- (iii) The Engagement Personnel shall assist in evaluation of the Company’s current business plan and four-wall store analysis along with the

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- preparation of a revised operating plan, cash flow forecast, and presentation of such plan and forecast as necessary;
- (iv) The Engagement Personnel shall assist in identification of cost reduction and operations improvement opportunities;
 - (v) The Engagement Personnel shall assist in cash management including the development and maintenance of a 26-week cash flow forecast, creation of a DIP / Cash Collateral budget as necessary, and preparation of reports and analyses to manage cash commitments and disbursements;
 - (vi) The Engagement Personnel shall assist in financing issues and sales process support including assistance in preparation of reports, communications with creditors, and communication with interested parties;
 - (vii) The Engagement Personnel shall assist with chapter 11 preparation and case administration including pre-bankruptcy planning, first day motion preparation, development of key employee incentive plans, and other post-filing requirements;
 - (viii) The Engagement Personnel shall communicate with the Company's stakeholders, including but not limited to vendors, customers, employees, lenders, creditor committees, court officials, attorneys and other service providers, as required;
 - (ix) The Engagement Personnel shall assist the CFO and other Company engaged professionals in developing for the Board's review possible restructuring plans or strategic alternatives for maximizing the enterprise value of the Company's various business lines;
 - (x) The CRO shall serve as the principal contact with the Company's creditors with respect to the Company's financial and operational matters; and
 - (xi) The Engagement Personnel shall perform such other services as requested or directed by the board of the directors (or, if applicable, the manager) of the Company (such board or manager, the "Board") or other Company personnel as authorized by the Board, and agreed to by A&M that is not duplicative of work others are performing for the Company.
- (c) The Engagement Personnel shall report to the Board or other applicable officers, as directed by the Board and, at the request of the Board, will make recommendations to and consult with the Board.
- (d) The Engagement Personnel will continue to be employed, by A&M and, while rendering services to the Company, will continue to work with other personnel at A&M in connection with unrelated matters that will not unduly interfere with

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the services rendered by the Engagement Personnel pursuant to this Agreement. With respect to the Company, however, the Engagement Personnel shall operate under the direction of the Board and A&M shall have no liability to the Company for any acts or omissions of the Engagement Personnel related to the performance or non-performance of services at the direction of the Board and consistent with the requirements of the Engagement and this Agreement.

- (e) In connection with the services to be provided hereunder, from time to time A&M may utilize the services of employees of its affiliates and subsidiaries as Engagement Personnel. Such affiliates and subsidiaries are wholly owned by A&M's parent company and employees.
2. Information Provided by Company and Forward Looking Statements. The Company shall use all reasonable efforts to: (i) provide the Engagement Personnel with access to management and other representatives of the Company; and (ii) to furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition and prospects of the Company that Engagement Personnel reasonably request in connection with the services to be provided to the Company. The Engagement Personnel shall rely, without further independent verification, on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by Engagement Personnel in connection with the services performed for the Company. The Company acknowledges and agrees that the Engagement Personnel are not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein. A&M and Engagement Personnel are under no obligation to update data submitted to them or to review any other areas unless specifically requested by the Board to do so.

You understand that the services to be rendered by the Engagement Personnel may include the preparation of projections and other forward-looking statements, and numerous factors can affect the actual results of the Company's operations, which may materially and adversely differ from those projections. In addition, Engagement Personnel will be relying on information provided by the Company in the preparation of those projections and other forward-looking statements.

3. Limitation of Duties. Neither A&M, nor the Engagement Personnel make any representations or guarantees that, inter alia, (i) an appropriate restructuring proposal or strategic alternative can be formulated for the Company, (ii) any restructuring proposal or strategic alternative presented to the Company's management or the Board will be more successful than all other possible restructuring proposals or strategic alternatives, (iii) restructuring is the best course of action for the Company, or (iv) if formulated, that any proposed restructuring plan or strategic alternative will be accepted by any of the Company's creditors, shareholders and other constituents. Further, neither A&M, nor the Engagement Personnel, assume any responsibility for the Company's decision to pursue, or not pursue any business strategy, or to effect, or not to effect any transaction. The Engagement Personnel shall be responsible for implementation only of the

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restructuring proposal or alternative approved by the Board and only to the extent and in the manner authorized and directed by the Board.

4. Compensation.

- (a) A&M will receive fees for the services of the Engagement Personnel based on the following hourly rates:

Managing Directors	\$1,100 - 1,575
Directors	850 - 1,100
Associates	625 - 825
Analysts	450 - 600

Such rates shall be subject to adjustment annually at such time as A&M adjusts its rates generally.

- (b) Fees for the first six (6) weeks of the engagement shall be limited to the lesser of (a) actual fees incurred or (b) \$500,000.00. For the avoidance of doubt, the foregoing cap on fees shall only apply to services rendered during the first six (6) weeks of the engagement and services provided thereafter shall not be subject to any cap on fees.
- (c) In addition, A&M will be reimbursed for its reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, meals, messenger and wireless charges. A&M also charges a flat rate of 4% of professional fees to cover otherwise unbilled items such as telephone and conferencing charges, computer use, technology and software license fees, research subscriptions and other internal services. All fees and expenses will be billed on a weekly basis or, at A&M's discretion, more frequently. Invoices are payable upon receipt.
- (d) The Company shall promptly remit to A&M a retainer in the amount of \$250,000.00 (the "Retainer") which shall be credited against any amounts due at the termination of this engagement and returned upon the satisfaction of all obligations hereunder. The Retainer will be held in a segregated non-interest-bearing account (which may hold other A&M and A&M affiliate client retainers), separate from the general account to which A&M will direct payment of ongoing fees and expenses. Absent your agreement to the contrary, A&M may only draw on the Retainer (or a portion thereof) in order to apply to invoices that are due and payable or other amounts due under this Agreement or as the Company may otherwise agree and Company will be informed of such application of the Retainer. If a Retainer is to be increased or decreased, the foregoing shall apply.
- (e) In addition to the hourly compensation, A&M is eligible for completion compensation in the amount of \$500,000.00 (the "Completion Fee") payable

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upon the earlier of (i) the consummation of a Chapter 11 plan of reorganization or (ii) the sale, transfer, or other disposition of all or a substantial portion of the assets or equity of the Company in one or more transactions.

5. Termination.

- (a) This Agreement will apply from the commencement of the services referred to in Section 1 and may be terminated with immediate effect by either party without cause by written notice to the other party.
- (b) A&M normally does not withdraw from an engagement unless the Company misrepresents or fails to disclose material facts, fails to pay fees or expenses, or makes it unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause exists.
- (c) On termination of the Agreement, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but are invoiced subsequent to such termination).
- (d) If the Company terminates this Agreement without "Cause" or if A&M terminates this Agreement for "Good Reason", A&M shall also be entitled to receive the Completion Fee upon the occurrence of the event specified in Section 4(d) if such event occurs within six (6) months of the termination. "Cause" shall mean gross negligence, willful default or fraud by A&M; "Good Reason" shall mean the Company's misrepresentation of or failure to disclose material facts, failure to pay fees or expenses when due (or circumstances indicating to A&M that fees or expenses will not be paid when due), circumstances such that it is unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause.
- (e) The provisions of this Agreement that give the parties rights or obligations beyond its termination shall survive and continue to bind the parties.

6. No Audit. Company acknowledges and agrees that A&M and Engagement Personnel are not being requested to perform an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of the AICPA, SEC or other state or national professional or regulatory body.

7. No Third Party Beneficiary. The Company acknowledges that all advice (written or oral) provided by A&M and the Engagement Personnel to the Company in connection with this engagement is intended solely for the benefit and use of the Company (limited to its Board and management) in considering the matters to which this engagement relates. The Company agrees that no such advice shall be used for any other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any

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purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

8. Conflicts. A&M is not currently aware of any relationship that would create a conflict of interest with the Company or those parties-in-interest of which you have made us aware. Because A&M and its affiliates and subsidiaries comprise a consulting firm (the "Firm") that serves clients on an international basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to, or have business associations with, other entities or people which had or have or may have relationships with the Company, including creditors of the Company. The Firm will not be prevented or restricted by virtue of providing the services under this Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the Company's, provided the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained. Each of the entities comprising the definition of Company (each, a "Company Entity") acknowledges and agrees that the services being provided hereunder are being provided on behalf of each of them and each of them hereby waives any and all conflicts of interest that may arise on account of the services being provided on behalf of any other Company Entity. Each Company Entity represents that it has taken all corporate action necessary and is authorized to waive such potential conflicts of interest.

9. Confidentiality/Non-Solicitation.

A&M and Engagement Personnel shall keep as confidential all non-public information received from the Company in conjunction with this engagement, except: (i) as requested by the Company or its legal counsel; (ii) as required by legal proceedings; or (iii) as reasonably required in the performance of this engagement. All obligations as to non-disclosure shall cease as to any part of such information to the extent that such information is, or becomes, public other than as a result of a breach of this provision. The Company, on behalf of itself and its subsidiaries and affiliates and any person which may acquire all or substantially all of its assets agrees that, until two (2) years subsequent to the termination of this engagement, it will not solicit, recruit, hire or otherwise engage any employee of A&M or any of its affiliates who worked on this engagement while employed by A&M or its affiliates ("Solicited Person"). Should the Company or any of its subsidiaries or affiliates or any person who acquires all or substantially all of its assets extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the Company equal to the Solicited Person's hourly client billing rate at the time of the offer multiplied by 4,000 hours for a Managing Director, 3,000 hours for a Senior Director and 2,000 hours for any other A&M employee. The Company acknowledges and agrees that this fee fairly represents the loss that A&M will suffer if the Company breaches this provision. The fee shall be payable at the time of the Solicited Person's acceptance of employment or engagement.

10. Indemnification/Limitations on Liability. The Company shall indemnify the Engagement Personnel acting as officers (the "Indemnified Professionals") to the same extent as the most favorable indemnification it extends to its officers or directors,

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whether under the Company's bylaws, its certificate of incorporation, by contract or otherwise, and no reduction or termination in any of the benefits provided under any such indemnities shall affect the benefits provided to the Indemnified Professionals. The Indemnified Professionals shall be expressly covered as officers under the Company's existing director and officer liability insurance policy(ies) and such coverage shall be primary to any insurance or indemnification made available to the Indemnified Professionals by A&M or resulting from the Indemnified Professionals' employment with A&M. Prior to the effective date of this engagement and as a condition of A&M accepting this engagement, the Company shall make such policy(ies) and all amendments thereto available to A&M for review and approval. The Company shall also maintain such insurance coverage for the Indemnified Professionals for a period of not less than six years following the date of the termination of the Indemnified Professionals' services hereunder. Company shall furnish evidence of any subsequent renewals of the applicable policy(ies) and shall give thirty (30) days' prior written notice to A&M of cancellation, non-renewal, or material change in coverage, scope, or amount of such director and officer liability policy. The provisions of this section are in the nature of contractual obligations and no change in applicable law or the Company's charter, bylaws or other organizational documents or policies shall affect the Indemnified Professionals' rights hereunder. The attached indemnity and limitation on liability provisions are incorporated herein and the termination of this agreement or the engagement shall not affect those provisions, which shall remain in full force and effect.

Each Company Entity hereby acknowledges and agrees that they are each jointly and severally liable to A&M and its affiliates for all of the Company's representations, warranties, covenants, liabilities and obligations set forth in the Agreement. Any beneficiary of this agreement may seek to enforce any of its rights and remedies hereunder against any or all Company Entities in any order at any time in its sole discretion.

11. Privacy and Data Protection. In the provision of Services under this Agreement, A&M may Process certain Company Personal Data. Capitalized terms used herein but not otherwise defined in the Agreement or in paragraph (b), below, shall have the meanings ascribed in paragraph (e), below.

(a) Mutual Obligations. A&M and Company shall each comply with Data Protection Laws applicable to their respective Processing of Company Personal Data.

(b) A&M Obligations. (i) A&M shall Process Company Personal Data on behalf of Company as reasonably necessary to providing the Services, which Company acknowledges consist of the services as described in the Agreement. (ii) A&M shall implement and maintain appropriate physical, technical, and organizational safeguards reasonably designed to protect the confidentiality and security of Company Personal Data, and to protect Company Personal Data against a Personal Data Breach. (iii) For purposes of this clause (iii), the terms "consumer", "business", "business purpose", "commercial purpose", "sell", and "share" shall have the meanings ascribed under the California Consumer Protection Act of 2018, as amended by the California Privacy Rights Act of 2020 ("CCPA") and, where applicable, other relevant Data Protection

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Laws. A&M shall not: (A) sell or share Company Personal Data; (B) retain, use, or disclose Company Personal Data for any purpose other than for providing the Services; (C) retain, use, or disclose Company Personal Data for a commercial purpose other than for providing the Services, or as otherwise permitted under Data Protection Laws; (D) retain, use, or disclose Company Personal Data outside of the direct business relationship between Company and A&M, except as otherwise permitted under Data Protection Laws; or (E) combine Company Personal Data it receives from, or on behalf of, Company with Personal Data that it receives from, or on behalf of, another person or persons, or collects from its own interaction with the consumer, except as otherwise provided under Data Protection Laws. A&M shall provide the same level of privacy protection to Company Personal Data as required of businesses under applicable Data Protection Laws and will notify Company if it determines that it can no longer meet its obligations under applicable Data Protection Laws. A&M and Company shall promptly notify and reasonably assist the other if it receives a request from a consumer seeking to exercise individual rights (e.g., access, deletion) with respect to Company Personal Data, including by providing all information necessary to enable the other to comply with the request. Company shall have the right to take reasonable and appropriate steps to ensure that A&M Processes Company Personal Data in a manner that is consistent with Company's obligations under applicable Data Protection Laws; specifically, Company shall have the right to monitor A&M's compliance with its privacy and data protection obligations herein through written questionnaires once every 12 months. Company shall have the right, upon no less than ten (10) business days' written notice, to request documentation from A&M demonstrating A&M's compliance with its privacy and data protection obligations herein, and to take other reasonable and appropriate steps to stop and remediate any unauthorized use of Company Personal Data by A&M. (iv) Notwithstanding anything in this paragraph (b) to the contrary, Company acknowledges and agrees: (A) A&M may disclose Company Personal Data to A&M's affiliates to assist A&M in Processing Company Personal Data as reasonably necessary to providing the Services; (B) A&M has Company's general authorization for the engagement of sub-processors to assist A&M in Processing Company Personal Data as reasonably necessary to providing the Services; provided, each sub-processor shall be subject to written agreement that complies with applicable Data Protection Law and is no less protective than as set forth herein; and (C) where reasonably necessary to provide the Services or as instructed by Company, A&M may disclose Company Personal Data to Company's other advisors, constituents, and/or counterparties in the matter for which Company engaged A&M to provide the Services.

(c) Company Obligations. (i) Company confirms that it has established all rights (including, where relevant, providing a privacy notice and obtaining any necessary consents) necessary under applicable Data Protection Laws for A&M to provide the Services under the Agreement. (ii) Company shall not do or permit anything to be done, through any act or omission, in providing or making available to A&M any Company Personal Data, that would cause A&M or any of its affiliates to contravene or incur any liability under any Data Protection Laws. (iii) If Company's transfer of Company Personal Data to A&M would be prohibited by the EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council ("GDPR") or other Data Protection Laws in the absence of an adequacy decision, standard contractual

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clauses, or other permitted transfer mechanism, Company shall be responsible for ensuring that appropriate safeguards are in place including, where applicable, by entering into standard contractual clauses with A&M. (iv) Company shall use its reasonable efforts, where practicable, to limit the Personal Data that it provides or makes available to A&M to information that is necessary and relevant for A&M's performance of the Services, including by removing and/or de-identifying datasets, and to notify A&M in advance regarding categories, types and volume of Personal Data that it will provide or make available so that the parties can implement appropriate data transmission, handling and storage safeguards. (v) If Company is a covered entity or business associate as defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Company shall not disclose protected health information (PHI) or electronic protected health information (ePHI) to A&M (in its own capacity as a business associate) unless and until the parties have entered into a mutually acceptable HIPAA business associate agreement, which will supersede this Privacy and Data Protection Provision with respect to such PHI/ePHI.

(d) Deidentified Data. To the extent A&M is permitted under the Agreement to deidentify, anonymize and/or aggregate Company Personal Data ("Deidentified Data"), Company acknowledges that A&M undertakes such actions in connection with and for the purpose of performing the Services, and Deidentified Data shall not be considered Company Personal Data.

(e) Definitions. (i) "Data Protection Laws" means all laws, rules and regulations pertaining to the privacy and security of Personal Data, including but not limited to CCPA and GDPR; (ii) "Personal Data" means all "personal data", "personal information", "personally identifiable information", "special categories of data", "sensitive personal information", and similarly defined terms under Data Protection Laws; (iii) "Company Personal Data" means any Personal Data that Company provides or makes available to A&M, or that A&M collects directly from individuals, in connection with A&M's performance of the Services (but excluding contact details about Company's personnel that A&M processes to manage the business relationship with Company); (iv) "Process" has the meaning under applicable Data Protection Laws, and in all events means to collect, access, analyze, use, store, transfer (including by remote access), or disclose by transmission; and (v) "Personal Data Breach" has the meaning under applicable Data Protection Laws, and in all events means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data.

12. Miscellaneous. This Agreement (together with the attached indemnity provisions), and all claims, proceedings or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement or the services provided hereunder (the "Related Matters"), shall be governed by, and enforced in accordance with, the internal laws of the State of New York, including its statutes of limitations, without regard to principles of conflict of law that would defer to the laws of another jurisdiction.

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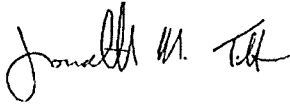
The Company and A&M agree to waive trial by jury in any action, proceeding or counterclaim brought by or on behalf of the parties hereto with respect to any Related Matters. The Company and A&M agree, to the extent permitted by applicable law, that any action with respect to any Related Matters shall be brought and adjudicated exclusively in the United States District Court for the Southern District of New York or, if such court lacks jurisdiction, in the New York state courts with jurisdiction over New York, New York; that those courts shall have exclusive jurisdiction over any Related Matters; to submit to the personal jurisdiction of such courts; and to waive any and all personal rights under the law of any jurisdiction to object on any basis (including, without limitation, inconvenience of forum) to jurisdiction or venue in any legal proceeding.

This Agreement shall be binding upon A&M and the Company, their respective heirs, successors, and assignees, and any heir, successor, or assignee of a substantial portion of A&M's or the Company's respective businesses and/or assets, including any Chapter 11 Trustee. This Agreement incorporates the entire understanding of the parties with respect to the subject matter hereof and may not be amended or modified except in writing executed by the Company and A&M. The Company agrees that A&M may aggregate information provided by or on behalf of the Company during this engagement with information provided by or on behalf of others and use and disclose that information in de-identified form as part of research and advice, including, without limitation, benchmarking services. Notwithstanding anything herein to the contrary, A&M may reference or list the Company's name and/or logo and/or a general description of the services in A&M's marketing materials, including, without limitation, on A&M's website.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

Alvarez & Marsal North America, LLC

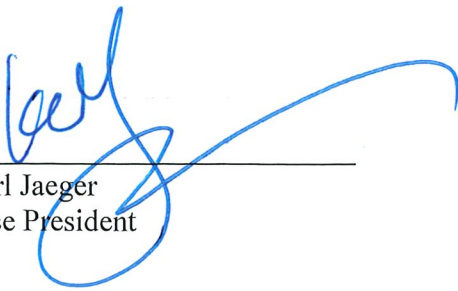
By: 

Jonathan Tibus
Managing Director

Accepted and agreed:

OTB Holding LLC
on behalf of itself and its subsidiaries

OTB Holding LLC
January 9, 2025

By: 

Karl Jaeger
Vice President

INDEMNIFICATION AND LIMITATION ON LIABILITY AGREEMENT

This indemnification and limitation on liability agreement is made part of an agreement, dated January 9, 2025 (which together with any renewals, modifications or extensions thereof, is herein referred to as the "Agreement"), by and between Alvarez & Marsal North America, LLC ("A&M") and OTB Holding LLC together with its subsidiaries (jointly and severally, the "Company"), for services to be rendered to the Company by A&M.

A. The Company agrees to indemnify and hold harmless each of A&M, its affiliates and their respective shareholders, members, managers, employees, agents, representatives and subcontractors (each, an "Indemnified Party" and collectively, the "Indemnified Parties") against any and all losses, claims, damages, liabilities, penalties, obligations and expenses, including the costs for counsel or others (including employees of A&M, based on their then current hourly billing rates) in investigating, preparing or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing the Agreement (including these indemnity provisions), as and when incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties' acceptance of or the performance or nonperformance of their obligations under the Agreement; provided, however, such indemnity shall not apply to any such loss, claim, damage, liability or expense to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. The Company also agrees that (a) no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company for or in connection with the engagement of A&M, except to the extent that any such liability for losses, claims, damages, liabilities or expenses are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct and (b) in no event will any Indemnified Party have any liability to the Company for special, consequential, incidental or exemplary damages or loss (nor any lost profits, savings or business opportunity). The Company further agrees that it will not, without the prior consent of an Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceedings) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding.

B. These indemnification provisions shall be in addition to any liability which the Company may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the engagement or the Agreement, as a result of or in connection with the Agreement or A&M's and its personnel's role under the Agreement, A&M or any Indemnified Party is required to produce any of its personnel (including former employees) for examination, deposition or other written, recorded or oral presentation, or A&M or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession

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or control pursuant to a subpoena or other legal (including administrative) process, the Company will reimburse the Indemnified Party for its out of pocket expenses, including the reasonable fees and expenses of its counsel, and will compensate the Indemnified Party for the time expended by its personnel based on such personnel's then current hourly rate.

C. If any action, proceeding or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, such Indemnified Party will notify the Company with reasonable promptness; provided, however, that any failure by such Indemnified Party to notify the Company will not relieve the Company from its obligations hereunder, except to the extent that such failure shall have actually prejudiced the defense of such action. The Company shall promptly pay expenses reasonably incurred by any Indemnified Party in defending, participating in, or settling any action, proceeding or investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding, or investigation or otherwise. Each Indemnified Party hereby undertakes, and the Company hereby accepts its undertaking, to repay any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor. If any such action, proceeding or investigation in which an Indemnified Party is a party is also against the Company, the Company may, in lieu of advancing the expenses of separate counsel for such Indemnified Party, provide such Indemnified Party with legal representation by the same counsel who represents the Company, provided such counsel is reasonably satisfactory to such Indemnified Party, at no cost to such Indemnified Party; provided, however, that if such counsel or counsel to the Indemnified Party shall determine that due to the existence of actual or potential conflicts of interest between such Indemnified Party and the Company such counsel is unable to represent both the Indemnified Party and the Company, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and the Company shall promptly advance its reasonable expenses of such separate counsel upon submission of invoices therefor. Nothing herein shall prevent an Indemnified Party from using separate counsel of its own choice at its own expense. The Company will be liable for any settlement of any claim against an Indemnified Party made with the Company's written consent, which consent shall not be unreasonably withheld.

D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not be enforced in such case, even though the express provisions hereof provide for indemnification, then the relative fault of the Company, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such

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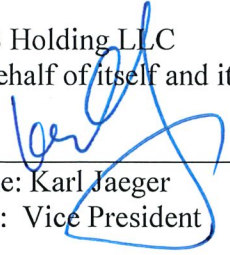
fraudulent misrepresentation.

E. In the event the Company and A&M seek judicial approval for the assumption of the Agreement or authorization to enter into a new engagement agreement pursuant to either of which A&M would continue to be engaged by the Company, the Company shall promptly pay expenses reasonably incurred by the Indemnified Parties, including attorneys' fees and expenses, in connection with any motion, action or claim made either in support of or in opposition to any such retention or authorization, whether in advance of or following any judicial disposition of such motion, action or claim, promptly upon submission of invoices therefor and regardless of whether such retention or authorization is approved by any court. The Company will also promptly pay the Indemnified Parties for any expenses reasonably incurred by them, including attorneys' fees and expenses, in seeking payment of all amounts owed it under the Agreement (or any new engagement agreement) whether through submission of a fee application or in any other manner, without offset, recoupment or counterclaim, whether as a secured claim, an administrative expense claim, an unsecured claim, a prepetition claim or a postpetition claim.

F. Neither termination of the Agreement nor termination of A&M's engagement nor the filing of a petition under Chapter 7 or 11 of the United States Bankruptcy Code (nor the conversion of an existing case to one under a different chapter) shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.

G. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or bylaws of the Company, any other agreements, any vote of stockholders or disinterested directors of the Company, any applicable law or otherwise.

OTB Holding LLC
on behalf of itself and its subsidiaries

By: 
Name: Karl Jaeger
Title: Vice President

ALVAREZ & MARSAL NORTH
AMERICA, LLC

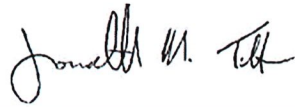
By: 
Name: Jonathan Tibus
Title: Managing Director

Exhibit B

Jonathan Tibus Declaration

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

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

**DECLARATION OF JONATHAN TIBUS IN SUPPORT OF APPLICATION
OF THE DEBTORS PURSUANT TO 11 U.S.C. §§ 105(A) AND 363(B) TO
(I) RETAIN ALVAREZ & MARSAL NORTH AMERICA, LLC TO PROVIDE
CERTAIN ADDITIONAL PERSONNEL AND (II) DESIGNATE JONATHAN
TIBUS AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS
NUNC PRO TUNC TO THE PETITION DATE**

I, Jonathan Tibus, hereby state and declare as follows:

1. I am a Managing Director with Alvarez & Marsal North America, LLC (together with employees of its professional service provider affiliates (all of which are wholly-owned by its parent company and employees), its wholly-owned subsidiaries and independent contractors, “A&M”), a restructuring advisory services firm with numerous offices throughout the country. I submit this declaration on behalf of A&M (the “Declaration”) in support of the *Application of the Debtors Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to (I) Retain Alvarez & Marsal North America, LLC to Provide Certain Additional Personnel and (II) Designate Jonathan Tibus as Chief Restructuring*

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

Officer for the Debtors Nun Pro Tunc to the Petition Date (the “Application”).² Except as otherwise noted, I have personal knowledge of the matters set forth herein.³

DISINTERESTEDNESS AND ELIGIBILITY

2. A&M (together with its affiliates, the “Firm”) utilizes certain procedures (the “Firm Procedures”) to determine its relationships, if any, to parties that may have a connection to the Debtors in these Chapter 11 Cases. In implementing the Firm Procedures, the following actions were taken to identify parties that may have connections to the Debtors and to determine the Firm’s relationship with such parties:

- (a) A&M requested and obtained from the Debtors extensive lists of interested parties and significant creditors (the “Potential Parties in Interest”).⁴ The list of Potential Parties in Interest which A&M reviewed is annexed hereto as Schedule A. The Potential Parties in Interest reviewed include, among others, the Debtors and their non-filing affiliates, prepetition and proposed post-petition lenders, current and former officers and directors, significant unsecured creditors of the Debtors (on a consolidated basis), parties holding ownership interests in the Debtors and various professionals related to the Engagement.
- (b) A&M then compared the names of each of the Potential Parties in Interest to the names in the master electronic database of the Firm’s current and former clients (the “Client Database”). The Client Database generally includes the name of each client of A&M, the name of each party who is or was known to be adverse to such client of the Firm in connection with the matter in which the Firm is representing such client, the name of each party that has, or has had, a substantial role with regard to the subject matter of the Firm’s retention, and the names of Engagement Personnel who are or were primarily responsible for matters for such clients.
- (c) An email was issued to all Firm professionals requesting disclosure of information regarding: (i) any known personal connections between the respondent and/or the Firm on the one hand, and certain significant Potential Parties in Interest or the

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Application.

³ Certain of the disclosures herein relate to matters within the personal knowledge of other professionals at A&M and are based on information provided by such professionals.

⁴ As may be necessary, A&M will supplement this Declaration if it becomes aware of a relationship that may adversely affect A&M’s retention in these cases or would otherwise require disclosure.

Debtors, on the other hand;⁵ (ii) any known connection or representation by the respondent and/or the Firm of any of those Potential Parties in Interest in matters relating to the Debtors; and (iii) any other conflict or reason why the Firm may be unable to represent the Debtors.

- (d) Known connections between former or recent clients of the Firm and the Potential Parties in Interest were compiled for purposes of preparing this Declaration. These connections are listed in Schedule B annexed hereto.

3. As a result of the Firm Procedures, I have thus far ascertained that, except as set forth herein, upon information and belief, if retained, A&M:

- (a) is not a creditor of the Debtors (including by reason of unpaid fees for prepetition services) or an equity security holder of the Debtors;
- (b) is not and has not been, within two years before the date of the filing of the petition, a director, officer (other than by virtue of A&M employees serving in the roles as Engagement Personnel (pre and post-petition) as described in the Application), or an employee of the Debtors; and
- (c) does not have any interest materially adverse to the interests of the Debtors' estates, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

4. As can be expected with respect to any international professional services firm such as the Firm, the Firm provides services to many clients with interests in the Debtors' Chapter 11 Cases. To the best of my knowledge, except as indicated below, the Firm's services for such clients do not relate to the Debtors' Chapter 11 Cases.

⁵ In reviewing its records and the relationships of its professionals, A&M did not seek information as to whether any Firm personnel or member of his/her immediate family: (a) indirectly owns, through a public mutual fund or through partnerships in which certain A&M personnel have invested but as to which such professionals have no control over or knowledge of investment decisions, securities of the Debtors or any other party in interest, or (b) has engaged in any ordinary course consumer transaction with any party in interest. If any such relationship does exist, I do not believe it would impact A&M's disinterestedness or otherwise give rise to a finding that A&M holds or represents an interest adverse to the Debtors' estates. It is also noted that in the course of our review it came to A&M's attention that A&M personnel hold de minimis investments, representing not more than 0.01% of the equity interests in the related entity, in various parties in interest, including but not limited to Hilton Plano Granite Park and Kimco Realty Corp. Inc.

5. In addition to the relationships set forth on Schedule B, I note that an A&M affiliates' Senior Advisor, Steve McGaw, is on the board of DirecTV Entertainment Holdings, LLC, an affiliate of the DirecTV Group Inc., one of the Debtors' vendors. Mr. McGaw is not providing services to the Debtors.

6. Further, as part of its diverse practice, the Firm appears in numerous cases and proceedings, and participates in transactions that involve many different professionals, including attorneys, accountants, and financial consultants, who represent claimants and parties-in-interest in the Debtors' Chapter 11 Cases. Further, A&M has performed in the past, and may perform in the future, advisory consulting services for various attorneys and law firms, and has been represented by several attorneys and law firms, some of which may be involved in these proceedings. Based on our current knowledge of the professionals involved, and to the best of my knowledge, none of these relationships create interests materially adverse to the Debtors in matters upon which the Firm is to be employed, and none are in connection with these cases.

7. If any new material relevant facts or relationships are discovered or arise, A&M will promptly file a supplemental declaration.

COMPENSATION

8. Subject to Court approval of the Application and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, any applicable U.S. Trustee guidelines, the Complex Case Procedures, and the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Georgia, A&M will seek from the Debtors payment for compensation on an hourly basis for all Additional Personnel, and reimbursement of actual and necessary expenses incurred by A&M. A&M's customary hourly rates as charged in bankruptcy and non-bankruptcy matters of this type by the professionals assigned to this engagement are outlined in the Engagement Letter. These hourly rates are adjusted annually.

9. In addition to compensation for professional services rendered by Engagement Personnel, A&M will seek reimbursement for reasonable and necessary expenses incurred in connection with these Chapter 11 Cases, including, but not limited to travel, lodging, meals, messenger and wireless charges. In addition, A&M shall be reimbursed for the reasonable fees and expenses of its outside counsel (if any) incurred in connection with the preparation and approval of this Application. All fees and expenses due to A&M will be billed on a weekly basis, or more frequently as agreed to between A&M and the Debtors, as further set forth in the Engagement Letter.

10. In addition to the hourly compensation, A&M is eligible for incentive compensation (the “Completion Fee”) of \$500,000 upon the earlier of (x) the consummation of a Chapter 11 plan of reorganization; and (y) the sale, transfer, or other disposition of all or a substantial portion of the assets or equity of the Company in one or more transactions.

11. In the ninety days prior to the Petition Date, A&M received payments totaling \$1,170,355 in the aggregate for services performed for the Debtors. A&M has applied these funds to amounts due for services rendered and expenses incurred prior to the Petition Date. As of the Petition Date, the Debtors did not owe A&M for any fees or expenses incurred prior to the Petition Date.

12. The Engagement Letter required the Debtors to remit to A&M a retainer in the amount of \$250,000 (the “Retainer”) which is to be credited against any amounts due at the termination of this engagement and returned upon the satisfaction of all obligations thereunder. A&M will only draw on the Retainer (or a portion thereof) in order to apply to invoices that are due and payable or other amounts due under the Engagement Letter or as the Debtors may otherwise agree and Company will be informed of such application of the Retainer.

13. To the best of my knowledge, (i) no commitments have been made or received by A&M with respect to compensation or payment in connection with these cases other than in accordance with

applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and (ii) A&M has no agreement with any other entity to share with such entity any compensation received by A&M in connection with these Chapter 11 Cases.

14. By reason of the foregoing, I believe A&M is eligible for retention by the Debtors pursuant to sections 105(a) and 363(b) of the Bankruptcy Code and the applicable Bankruptcy Rules and Local Rules.

[Remainder of Page Intentionally Blank]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: March 6, 2025

/s/ Jonathan Tibus
Jonathan Tibus
Managing Director
Alvarez & Marsal North America, LLC

Schedule A

List of Potential Parties in Interest

Debtors

MT. LAUREL RESTAURANT OPERATIONS LLC
OTB ACQUISITION LLC
OTB ACQUISITION OF BALTIMORE COUNTY LLC
OTB ACQUISITION OF KANSAS LLC
OTB AQUISITION OF HOWARD COUNTY LLC
OTB AQUISITION OF NEW JERSEY LLC
OTB HOLDING LLC

Significant Equity Holders

ARGONNE CAPITAL GROUP
ARGONNE CAPITAL PARTNERS I, LP
ARGONNE CAPITAL PARTNERS PARALLEL I, LP
BORDER PARENT LLC

Known Affiliates

ARGONNE CAPITAL PARTNERS I, LP
ARGONNE CAPITAL PARTNERS PARALLEL I, LP
BORDER GP LLC
BORDER HOLDINGS, LLC
BORDER PARENT HOLDINGS, LP
BORDER PARENT LLC
BORDER PARTNERS LP
OTB PARTNER INTEREST, LLC

Directors/Officers

BEN NEMO
BRIAN SHAUGHNESSY
CHRIS ROCKWOOD
EVELINA ROJAS
KARL JAEGER
KHALID ESSAFI
MIKE KLUMP
STACIE BENNETT
TARA SAUERNHEIMER

Former Directors/Officers

ERIC EASTON
KEITH DAVIS
TIM WARD

Depository Institutions and Lenders

CROSSFIRST BANK
BANK OF AMERICA

Franchisees

BAYSIDE PRIVATE EQUITY COMPANY, LTD., A KOREAN CORPORATION
BEST AUSTIN HOSPITALITY, INC.
CONFUSION, LLC
DENVER AIRPORT HGI
FIRETAP TIKAHTNU, LLC
FRONTERA CHICOS
HOST INTERNATIONAL, INC.
JRW, INC., A KOREAN CORPORATION
MESA BORDER, INC.
NCF BORDER, INC.
OMA MEX, LLC
SYNERGY PACIFIC MGMT, LLC

Insurance

1970 GROUP, INC.
AFCO
ARTHUR J. GALLAGHER & CO.
ASPEN AMERICAN INSURANCE COMPANY
CHUBB GROUP OF INSURANCE CO
COALITION INSURANCE SOLUTIONS, INC.
GREAT AMERICAN INSURANCE GROUP
HANOVER INSURANCE COMPANY
HARTFORD FIRE INSURANCE COMPANY
HARTFORD INS. CO. OF THE MIDWEST
HISCOX INSURANCE COMPANY
HOMESITE INSURANCE COMPANY OF FLORIDA
LOCKTON COMPANIES, LLC
MARKEL AMERICAN INSURANCE COMPANY
METHOD INSURANCE
STARR INDEMNITY & LIABILITY COMPANY
U.S. SPECIALTY INSURANCE COMPANY
WESTCHESTER SURPLUS LINES INSURANCE CO
ZURICH AMERICAN INSURANCE COMPANY

Landlords

12383 JAMES STREET LLC
1350 NW, LLC
170 NE 40 STREET, INC.
2011 EAST COPELAND LAND TRUST
3P FAMILY INVESTMENTS, LLC
ACADIA REALTY TRUST
ADDISON QUORUM PARTNERS LTD
AGO TRUST JOHN NICHOLASVP FIDUCIARY SERVICE
AIRPORT ASSOCIATES LP
AMERICAN FINANCE OPERATING PSHIP LP

AMERICAN REALTY CAPITAL RETAIL OP PRS LP
ANIL KUMAR
AVIANA COMPANY LTC LLC
AZAD WOBURN, LLC
BARNERS POWER NORTH NO.1 LLC
BARTEL TRUST AGREEMENT
BELTLINE AIRPORT FRWY LTD
BF WICHITA, L.L.C.
BORDOLIS LLC
BRADLEY FAIR PROPERTIES
BRE DDR BR FAIRLANE MI LLC
BRIXMOR OPERATING
BROOKFIELD PROPERTIES
C & S COMMERCIAL PROPERTIES
CASTLE PARK INC.
CBL T C LLC
CENTRAL REALTY HOLDINGS LLC
COTTON, INC.
DDRA AHWATUKEE FOOTHILLS LL
DDRM WESTFALLS PLAZA
DIAL REALTY NORTH ACADEMY
DISCOUNTLAND INC.
E&P AT NESHAMINY LLC
EA GREENWOOD LLC
FAIRFAX COMPANY OF VIRGINIA LLC
FB HOLTSVILLE RETAIL LLC
FOUNDATION CAPITAL RESOURCES, INC.
GARRETT ENTERPRISES INC
GGP JORDAN CREEK LLC
GGP-GRANDVILLE LLC
GRE BROADMOOR LLC
GRI GATEWAY OVERLOOK LLC
HAIDAR ESTATES, LLC
HARRIS METHODIST HEB
JAH INTERESTS VIII, LLC
JAHCO OKLAHOMA PROPERTIES
JF IV HOLDINGS LLC
JORDAN CREEK TOWN CENTER LLC
K/BTF BROADWAY OWNER LLC
KATRONEL PROPERTIES, LLC
KIMCO LAKE PRAIRIE TC LP
KOTIS HOLDINGS, LLC
KPE UNITED LLC
M.S. MANAGEMENT ASSOCIATES INC.
MAIN STREET AT EXTON LP
MANGANARO'S HERO BOY, INC.

MANSFIELD KDC III LP
MATTHEW MASON AS RECEIVER OF ALGONQUIN COMMONS
MCIF WANAMAKER CROSSING LLC
MEDRANO FAMILY INTERESTS III LLC
MRV PORTFOLIO DBA MK TOWNE CROSSING ASSOCIATES LLC
MVP INVESTMENTS
NADG NNN OTB (MO) LP
NADG NNN OTB OK LP
NATIXIS COMM MTG SEC TRUST COMM MTG PT CERTS
NEUBAUER ENTERPRISES, LLC
NEW MARKET SQUARE LTD
NOLAN KATZ
NORTHEAST BORDER, LLC
ORANGE GROVE UTILITIES
OTB WEATHERFORD LLC
OTR NOMINEE OF STATE TEACHERS
PACIFIC COMMERCIAL MANAGEMENT, INC.
PAR CAPITAL PARTNERS, INC.
PARAMOUNT REALTY
PR WOODLAND LIMITED
RAMA IL, LLC
RANCHO TEXARKANA INVESTORS, LLC
REALTY INCOME
REGENCY CENTERS CORPORATION
RESTON SPECTRUM LLP
ROBERT SISK
RPAI TOWSON SQUARE, L.L.C.
RTF NB RETAIL 1, LLC
SANKALP RETAIL FUND 1 LLC
SHARK PROPERTIES
SHOUJEN DANIEL DU AND CHRISTIE ZHENG LI, TRUSTEES OF THE DU AND LI
FAMILY TRUST
SIKES SENTER MALL REALTY HOLDINGS, LLC
SIMON PROPERTY GROUP INC.
SIMON PROPERTY GROUP LP
SOUTH SQUARE LLC
SRIVIVAS LP, 401 CRESCENT DR.
STERLING RESIDENTIAL, LLC
THERIOT HOLDINGS, LLC
THERIOT HOLDINGS, LLC
TRIAD DEVELOPMENT LTD
TSCA-250 LIMITED PARTNERSHIP
TWIN CREEKS FCH TX LLC
VERA CRUZ PROPERTIES LP
VEREIT, INC.
VISTA MANAGEMENT

WALLEN VENTURES LLC
WARWICK BALD HILL ROAD LLC
WESTLAND GARDEN STATE PLAZA LP
WESTLAND TRIPLE NET, LLC
WILLIAM ZIERING
WILLOW BEND MARKET LTD
ZIG IRVING LLC

Asserted or Existing Litigation Claimants

THE INFINITE AGENCY, LLC
WESTLAND TRIPLE NET, LLC

Major Foodservice Vendors

DEAN FOODS
LAND O' LAKES
US FOODS

Top 30 Vendors by Open A/P

AFCO ACCEPTANCE CORP
ANDREWS DISTRIBUTING OF N TX
BAILEY LAUERMAN AND ASSOCIATES INC
BEST RESTAURANT EQUIPMENT AND DESIGN INC
BROTHERS PRODUCE OF DALLAS INC
CINTAS CORPORATION NO 2
COLORMARK LC
DOORDASH INC
ECOLAB INC
EDWIN T WALLEN
FRONTIER PRODUCE INC
G&R MECHANICAL, INC.
GRANITE TELECOMMUNICATIONS LLC
HILTON DALLAS PLANO GRANITE PARK
INFINITE AGENCY LLC
KEANY PRODUCE CO
KIMBALL AND THOMPSON PRODUCE CO
LA GRASSO BROS INC
LIBERTY FRUIT CO INC
LOOMIS ARMORED INC
NCR CORPORATION
NUCO2 INC AND SUBSIDIARIES
PAYTRONIX SYSTEMS INC
PLAINFIELD FRUIT AND PRODUCE CO INC
SMITH AND HOWARD PC INC
SPECS WINES SPIRITS FINER FOOD
TEXAS RANGERS
THE CULINARY EDGE LLC

THE DIRECTV GROUP INC
THE WASSERSTROM CO INC
VESTIS GROUP INC
WESTERN ASSOCIATES INC

Bankruptcy Professionals – Retained

ALVAREZ AND MARSAL
HILCO CORPORATE FINANCE
KING & SPALDING LLP
KURTZMAN CARSON CONSULTANTS, LLC

Bankruptcy Judges

CHIEF JUDGE BARBARA ELLIS-MONRO
JUDGE JAMES R. SACCA
JUDGE JEFFREY W. CAVENDER
JUDGE LISA RITCHEY CRAIG
JUDGE MARY GRACE DIEHL
JUDGE PAUL M. BAISIER
JUDGE PAUL W. BONAPFEL
JUDGE SAGE M. SIGLER

U.S. Trustee Office

ADRIANO O. IQBAL
ALAN HINDERLEIDER
ALLISON CLEARY
ANNE CABRERA
BETH BROWN
CHEVONNE DUCILLE
DAVID WEIDENBAUM
DEBORAH R. JACKSON
DONAVAN SLACK
JONATHAN S. ADAMS
LINDSAY KOLBA
LISA SMOOT
MARTIN P. OCHS
MICHELE STEPHENS-TAYLOR
R. JENEANE TREACE
RANDAL D. ENNEVER
ROSLYN DOWDY
ROXANA PETERSON
SCARLETT L. ALDAZ
TARA KELLY

Schedule B

Potential Connections or Related Parties

ACCRUENT, LLC
AMERICAN REALTY CAPITAL RETAIL OP PRS LP
ARGONNE CAPITAL PARTNERS I, LP
ASPEN AMERICAN INSURANCE COMPANY
BRIXMOR OPERATING
BROOKFIELD PROPERTIES
CHUBB GROUP OF INSURANCE CO
CINTAS CORPORATION NO 2
CROSSFIRST BANK
DEAN FOODS
GALLAGHER BASSETT SERVICES INC.
GREAT AMERICAN INSURANCE GROUP
HANOVER INSURANCE COMPANY, THE
HARTFORD FIRE INSURANCE COMPANY
HILCO CORPORATE FINANCE
HILTON DALLAS PLAN GRANITE PARK
HISCOX INSURANCE COMPANY
KING & SPALDING LLP
LAND O' LAKES
LOCKTON COMPANIES, LLC
MARKEL AMERICAN INSURANCE COMPANY
MICHAEL KLUMP
NATIXIS COMM MTG SEC TRUST COMM MTG PT CERTS
NCR CORPORATION
NUCO2 INC. AND SUBSIDIARIES
REALTY INCOME
SIMON PROPERTY GROUP INC.
STARR INDEMNITY & LIABILITY COMPANY
THE CULINARY EDGE LLC
THE DIRECTV GROUP INC
U.S. SPECIALTY INSURANCE COMPANY
ZURICH AMERICAN INSURANCE COMPANY

Exhibit C

Proposed Order

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

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

ORDER AUTHORIZING THE DEBTORS, PURSUANT TO 11 U.S.C. §§ 105(A) AND 363(B), TO (I) RETAIN ALVAREZ & MARSAL NORTH AMERICA, LLC TO PROVIDE CERTAIN ADDITIONAL PERSONNEL AND (II) DESIGNATE JONATHAN TIBUS AS CHIEF RESTRUCTURING OFFICER FOR THE DEBTORS *NUNC PRO TUNC TO THE PETITION DATE SUBJECT TO OBJECTION*

This matter is before the Court on the *Application of the Debtors Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to (I) Retain Alvarez & Marsal North America, LLC to Provide Certain Additional Personnel and (II) Designate Jonathan Tibus as Chief Restructuring Officer for the*

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

Debtors Nunc Pro Tunc to the Petition Date [ECF No. [●]] (the “Application”) filed by the above-captioned debtors and debtors in possession. All capitalized terms used but not defined herein shall have the meanings given them in the Application.

A. No hearing is necessary on the Application absent the filing of an objection to it. Pursuant to a certificate of service filed with the Application, the Application has been served on (a) the Office of the United States Trustee for the Northern District of Georgia; (b) the Debtors’ thirty (30) largest unsecured creditors; (c) counsel to the Debtor’s prepetition lenders; (d) counsel to the Debtors’ debtor-in-possession lender; (e) the Internal Revenue Service; (f) the Georgia Department of Revenue; (g) the Attorney General for the State of Georgia; (h) the United States Attorney for the Northern District of Georgia; (i) the state attorneys general for states in which the Debtors conduct business; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. No further service of the Application is necessary.

B. The Application and the *Declaration of Jonathan Tibus in Support of the Application of the Debtors Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to (I) Retain Alvarez & Marsal North America, LLC to Provide Certain Additional Personnel and (II) Designate Jonathan Tibus as Chief Restructuring Officer for the Debtors Nunc Pro Tunc to the Petition Date* (the “Tibus Declaration”) demonstrate that Alvarez & Marsal North America, LLC.

C. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases, dated February 6, 2023* (the “Complex Case Procedures”). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and venue of this proceeding and the

Application in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Court may enter a final order on this matter consistent with Article III of the United States Constitution.

Accordingly, it is HEREBY ORDERED THAT:

1. The Application is granted to the extent set forth herein.
2. The terms of the Engagement Letter, including without limitation, the compensation provisions and the indemnification provisions, are reasonable terms and conditions of employment and are hereby approved.
3. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are hereby authorized to retain A&M to provide certain additional personnel and to designate Jonathan Tibus as the Debtors' Chief Restructuring Officer, *nunc pro tunc* to the Petition Date, on the terms set forth in the Engagement Letter, subject to the following terms, which apply notwithstanding anything to the contrary:
 - (a) A&M and its affiliates shall not act in any other capacity (for example, and without limitation, as a claims agent/claims administrator, or investor/acquirer) in connection with the above-captioned cases other than as Chief Restructuring Officer and the corresponding Engagement Personnel.
 - (b) In the event the Debtors seek to have A&M personnel assume executive officer positions that are different than the positions disclosed in the Application, or to materially change the terms of the engagement by either (i) modifying the functions of personnel, (ii) adding new executive officers, or (iii) altering or expanding the scope of the engagement, a motion to modify the retention shall be filed.
 - (c) On a monthly basis, A&M shall file with the Court, and provide notice to the United States Trustee and any official committees, a report of staffing on the engagement for the previous month. Such report shall include the names and functions filled of the individuals assigned. All staffing shall be subject to review by the Court in the event an objection is filed.
 - (d) No principal, employee or independent contractor of A&M and its affiliates shall serve as a director of any of the above-captioned Debtors during the pendency of the above-captioned cases.

- (e) A&M shall file with the Court, and provide notice to the U.S. Trustee and all official committees, reports of compensation earned and expenses incurred on a quarterly basis. Such reports shall contain summary charts that describe the services provided, identify the compensation earned by each executive officer and staff employee provided, and itemize the expenses incurred. All compensation shall be subject to review by the Court in the event an objection is filed.
- (f) With respect to payment of any fees and expenses, A&M shall abide by the provisions set forth in Section J of the Complex Case Procedures and shall receive monthly payments from the Debtors consistent with Section J; provided, however, A&M shall not be required to submit fee applications pursuant to Sections 330 and 331 of the Bankruptcy Code. Instead A&M's fees shall be reviewed at the conclusion of the case on a reasonableness standard.
- (g) Success fees, transaction fees, or other back-end fees shall be approved by the Court at the conclusion of the case on a reasonableness standard and are not being pre-approved by entry of this Order. No success fee, transaction fee, or back-end fee shall be sought upon conversion of the Chapter 11 Cases, dismissal of the Chapter 11 Cases for cause, or appointment of a trustee.
- (h) For a period of three years after the conclusion of the engagement, neither A&M nor any of its affiliates shall make any investments in the Debtors or the Reorganized Debtors.
- (i) A&M shall disclose any and all facts that may have a bearing on whether A&M, its affiliates, and/or any individuals working on the engagement have any interest materially adverse to the interest of the Debtors' estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason. The obligation to disclose identified in this subparagraph is a continuing obligation.
- (j) The Debtors are permitted to indemnify those persons serving as executive officers on the same terms as provided to the Debtors' other officers and directors under the corporate bylaws and applicable state law, along with insurance coverage under the Debtors' Directors & Officers insurance policy..

4. To the extent there is inconsistency between the terms of the Engagement Letter, the Application, and this Order, the terms of this Order shall govern.

5. Any party in interest shall have twenty-one (21) days from the service of this Order to file an objection to the Application and/or the relief provided in this Order.

6. If an objection is timely filed, counsel for the Debtors will set the Application and all such objections for hearing pursuant to the Court's Open Calendar Procedures.

7. If no objection to this Order is timely filed, this Order shall be a final Order approving the Application.

8. The Debtors and A&M are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

9. Notice of the Application as provided therein is deemed to be good and sufficient notice of such Application.

10. The Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

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

[END OF ORDER]

Prepared and presented by:

/s/ Jeffrey R. Dutson

Jeffrey R. Dutson

Georgia Bar No. 637106

Brooke L. Bean

Georgia Bar No. 764552

Kyung Won Song

Georgia Bar No. 692753

KING & SPALDING LLP

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Proposed Counsel for the Debtors in Possession