

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

The Cliffs Club & Hospitality Group, Inc., *et al.*,¹ d/b/a The Cliffs Golf & Country Club,

Debtors.

CHAPTER 11

Case No. 12-01220

Joint Administration Pending

DEBTORS' MOTION PURSUANT TO SECTIONS 105(a), 362(d), 363(b), 363(c) AND 503(b) OF THE BANKRUPTCY CODE (I) FOR AUTHORIZATION TO (A) CONTINUE THEIR WORKERS' COMPENSATION, LIABILITY, PROPERTY, AND OTHER INSURANCE PROGRAMS, (B) PAY ALL OBLIGATIONS IN RESPECT THEREOF AND (C) ENTER INTO PREMIUM FINANCING AGREEMENTS IN THE ORDINARY COURSE OF BUSINESS, AND (II) FOR AUTHORIZATION FOR FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS

COME NOW The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors"), and respectfully represent:

BACKGROUND

1. On the date hereof (the "Petition Date"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors are authorized to continue to operate their businesses and manage their

¹ The Debtors, followed by the last four digits of their respective taxpayer identification numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338); CCHG Holdings, Inc. (1356); The Cliffs at Mountain Park Golf & Country Club, LLC (2842); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898); The Cliffs at High Carolina Golf & Country Club, LLC (4293); The Cliffs at Glassy Golf & Country Club, LLC (6559); The Cliffs Valley Golf & Country Club, LLC (6486); Cliffs Club & Hospitality Service Company, LLC (9665).

properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. Contemporaneously herewith, the Debtors have filed a motion seeking joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

3. A description of the Debtors' businesses, the reasons for filing these Chapter 11 cases, and the relief sought from this Court to allow for a smooth transition into operations under Chapter 11 are set forth in the Declaration of Timothy P. Cherry in Support of First Day Motions (the "Cherry Declaration"), which has been filed with the Court.

4. No request has been made for the appointment of a trustee or examiner, and no official committee has been appointed.

JURISDICTION AND VENUE

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

6. The Debtors request, pursuant to sections 105(a), 362(d), 363(b), 363(c) and 503(b) of the Bankruptcy Code, authorization to continue various Insurance Programs (as defined below) uninterrupted, and to honor their undisputed prepetition obligations thereunder (the "Insurance Obligations") and enter into Premium Financing Obligations (as defined below) in the ordinary course of business, subject to terms of the budget attached to the orders relating to debtor in possession financing and use of cash collateral (the "DIP Budget").

7. To the extent any of the Debtors' employees hold valid claims under their workers' compensation programs (the "Workers' Compensation Programs"), the Debtors also

seek authorization to modify the automatic stay imposed by section 362 of the Bankruptcy Code (the "Automatic Stay") to permit such employees to proceed with their claims under the Workers' Compensation Programs. This modification of the Automatic Stay pertains solely to claims under the Workers' Compensation Programs. Any claims relating to any of the Insurance Programs or otherwise shall remain subject to the Automatic Stay.

8. As part of their cash management system, the Debtors maintain disbursement accounts at certain banks and other financial institutions (the "Banks"). The Debtors draw upon funds in their disbursement accounts to satisfy their obligations arising from the Insurance Programs. The Debtors request that the Court authorize the Banks to receive, honor, process, and pay any and all checks drawn, or electronic fund transfers requested or to be requested, on the disbursement accounts to the extent that such checks or electronic fund transfers relate to any Insurance Obligations.

**THE DEBTORS' INSURANCE PROGRAMS
AND RELATED OBLIGATIONS**

9. In connection with the operation of their businesses, the Debtors maintain many workers' compensation, general liability and property insurance programs, which provide the Debtors with insurance coverage for claims relating to, among other things, workers' compensation, automobile losses and liability, directors' and officers' liability, fiduciary liability, general liability, employee health, employee dental, employee disability, and employee life insurance benefits (the "Insurance Programs") through several different insurance carriers (the "Insurance Carriers") including, but not limited to, the Insurance Programs and Insurance Carriers identified in Exhibit A hereto.

10. The Debtors are required to pay, either directly or through the Debtors' insurance brokers, premiums for coverage under the Insurance Programs noted above, including under the

Debtors' Workers' Compensation Program (collectively, the "Insurance Premiums"). The Insurance Premiums are based upon a fixed rate established and billed by each Insurance Carrier. The premiums for most of the Insurance Programs are determined annually and are paid at the inception of each policy. The Debtors seek authorization to satisfy these obligations as they become due.

11. Because it is not always economically advantageous for the Debtors to pay the Insurance Premiums on all of the Insurance Policies on a lump-sum basis, in the ordinary course of the Debtors' businesses, the Debtors finance the premiums on certain of their Insurance Policies pursuant to premium financing agreements with third-party lenders. In exchange for the financing, the Debtors agree to pay monthly installments in accordance with a pre-set payment schedule and grant their lender a security interest in "unearned premiums" to secure their payment obligations. As of the Petition Date, the Debtors believe that approximately \$160,368 remains outstanding with respect to the current insurance premium financing agreements.

12. Out of an abundance of caution, the Debtors seek authorization pursuant to section 363(c) of the Bankruptcy Code to renew the Insurance Programs in the ordinary course of business. In connection therewith, the Debtors also seek authorization pursuant to section 363(c) of the Bankruptcy Code to finance the premiums due under those Insurance Policies in the ordinary course of the Debtors' businesses.

Cause Exists to Authorize the Continuation of the Debtors' Insurance Programs and the Payment of the Debtors' Insurance Obligations

13. Pursuant to section 503(b)(1) of the Bankruptcy Code, a debtor may incur, and the court, after notice and a hearing, shall allow as administrative expenses, among other things, "the actual, necessary costs and expenses of preserving the estate." 11 U.S.C. § 503(b)(1). In addition, pursuant to section 363(b) of the Bankruptcy Code, a debtor may, in the exercise of its

sound business judgment and after notice and a hearing, use property of the estate outside of the ordinary course of business. *Id.* § 363(b). Section 105(a) of the Bankruptcy Code further provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

Id. § 105(a). The Debtors submit that the use of the Debtors' estates funds for payment of the Insurance Obligations is permitted by sections 503(b)(1), 363(b), and 105(a) as necessary costs of preserving the estates.

14. The Debtors believe that most of their obligations under their Insurance Programs will constitute postpetition obligations of the Debtors' estates. However, with respect to those Insurance Obligations that are prepetition claims, payment of such obligations is necessary and appropriate, and may be authorized under sections 363(b) and 105(a) of the Bankruptcy Code pursuant to the "doctrine of necessity." The "doctrine of necessity" functions in a chapter 11 case as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code and further supports the relief requested herein. *See, e.g., In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to continued operation of the debtor); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989) (authorizing the payment of prepetition employee wages and benefits while recognizing the judicial power to "authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor"); see also *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that

Bankruptcy Code section 105(a) “provides a statutory basis for the payment of pre-petition claims” under the doctrine of necessity and noting that the Supreme Court accepts the authority of the bankruptcy court “to authorize payment of pre-petition claims when such payment is necessary for the debtor’s survival during chapter 11.”) The rationale for the “doctrine of necessity” is consistent with the paramount goal of chapter 11 – “facilitating the continued operation and rehabilitation of the debtor” *Ionosphere Clubs*, 98 B.R. at 176. Accordingly, pursuant to section 105(a) and 363(b) of the Bankruptcy Code, this Court is empowered to grant the relief requested herein.

15. The nature of the Debtors’ businesses and the extent of their operations make it essential for the Debtors to maintain their Insurance Programs on an ongoing and uninterrupted basis. The nonpayment of any premiums, deductibles, or related fees under any of the Insurance Programs could result in one or more of the Insurance Carriers terminating their existing policies, declining to renew their insurance policies or refusing to enter into new insurance agreements with the Debtors in the future.

16. The retention of the Debtors’ qualified and dedicated senior management is also linked to the continued effectiveness of the directors’ and officers’ liability insurance policies. In addition, pursuant to the guidelines (the “U.S. Trustee Guidelines”), the Debtors are obligated to remain current with respect to certain of their primary Insurance Programs. Should any insurance policy lapse during the pendency of the Debtors’ chapter 11 cases, the U.S. Trustee Guidelines mandate that the Debtors forward proof of policy renewal of that policy to the U.S. Trustee. Therefore, the continuation and renewal of the Insurance Programs, on an uninterrupted basis, and the payment of all prepetition and postpetition Insurance Obligations arising under the

Insurance Programs, is not only essential to preserve the Debtors' businesses and the value of the Debtors' estates for all creditors, but also compulsory pursuant to the U.S. Trustee Guidelines.

17. Accordingly, the Debtors seek authority, pursuant to sections 503(b)(1), 363(b), and 105(a) of the Bankruptcy Code, to honor their Insurance Obligations and continue their Insurance Programs uninterrupted, as such programs were in effect as of the Petition Date. The Debtors submit that payment of obligations due or arising under or related to these Insurance Programs will be paid in the ordinary course of business and in accordance with the terms of these programs and policies and in a manner consistent with prepetition practices.

18. Furthermore, if the Debtors are unable to enter into arrangements to pay the premiums under the renewed Insurance Policies the Debtors would be required to pay lump-sum premiums for the insurance policies in advance, thus negatively affecting the Debtors' cash flow in the infancy of these chapter 11 cases. In view of the importance of maintaining insurance coverage with respect to their business activities and the preservation of the Debtors' estates by financing the insurance premiums, the Debtors believe it is in the best interests of their estates to authorize the Debtors to enter into new insurance premium financing arrangements in the ordinary course of business. Any other alternative would likely require considerable additional cash expenditures and would be detrimental to the Debtors' reorganization efforts.

19. The Debtors respectfully submit that renewal of the Insurance Policies and entry into insurance premium financing agreements should be authorized pursuant to section 363(c) of the Bankruptcy Code as actions in the ordinary course of the Debtors' businesses.

20. Numerous courts in this and other districts have granted the relief requested herein in other large chapter 11 cases. *See, e.g., In re BI-LO, LLC*, Case No. 09-02140-HB (Bankr. D.S.C. April 8, 2009); *In re Sharper Image Corp.*, Case No. 08-10322 (KG) (Bankr. D.

Del. Feb. 20, 2008); *In re Charys Holding Company, Inc. and Crochet & Borel Servs., Inc.*, Case No. 08-10289 (BLS) (Bankr. D. Del. Feb. 15, 2008).

The Automatic Stay Should Be Waived for Workers' Compensation Claims

21. Section 362(a) of the Bankruptcy Code, commonly known as the "automatic stay," operates to stay:

the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a)(1). Section 362, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for "cause." *Id.* § 362(d)(1).

22. To the extent the Debtors' employees hold valid workers' compensation claims, the Debtors seek authorization, under section 362(d) of the Bankruptcy Code, to permit these employees to proceed with their claims in the appropriate judicial or administrative forum, subject to the subject insurance policy. The Debtors believe cause exists to modify the automatic stay because prohibiting the Debtors' employees from proceeding with their claims could have a detrimental effect on the financial well-being and morale of such employees and lead to their departure. Such departures could severely disrupt the Debtors' businesses to the detriment of all parties in interest.

23. To this end, and solely with respect to Workers' Compensation Claims covered under the Workers' Compensation Programs, the Debtors seek to modify the automatic stay as it relates to the Workers' Compensation Claims; provided, that such claims are pursued in accordance with the Workers' Compensation Programs and recoveries, if any, are limited to the proceeds from the applicable Workers' Compensation Program. All other claims, including any

relating to matters covered by other Insurance Programs, will remain subject to the automatic stay. To effectuate the aforementioned modification of the automatic stay, the Debtors request that the Court waive the stay of a judgment under Bankruptcy Rule 7062 and the requirements under Bankruptcy Rule 9014 relating to contested matters with respect to claims under the Workers' Compensation Programs.

24. Pursuant to this Motion, the Debtors do not seek a waiver, termination, or modification of the automatic stay with respect to any other claims or matters, and nothing in this motion should be construed as a request therefor.

**Request for Authority for Banks to Honor and Pay Checks
Issued and Electronic Funds Transferred with Respect to Insurance Obligations**

25. The Debtors further request that the Court authorize and direct the Banks to receive, process, honor and pay any and all checks drawn or electronic funds transferred to pay the Insurance Obligations, whether such checks were presented prior to or after the Petition Date; provided, however, that such checks or electronic transfers are identified by the Debtors as relating directly to the authorized payment of the Insurance Obligations. The Debtors also seek authority to issue new postpetition checks, or effect new electronic fund transfers, on account of the Insurance Obligations to replace any prepetition checks or electronic fund transfer requests that may be dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

THE REQUESTED RELIEF SATISFIES BANKRUPTCY RULE 6003

26. The Debtors submit the facts cited herein and in the Cherry Declaration, filed contemporaneously herewith, illustrate that the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and their estates. Based on the foregoing, the Debtors respectfully submit that Bankruptcy Rule 6003 has been satisfied.

WAIVER OF BANKRUPTCY RULES 6004(A) AND (H)

27. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14 day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

28. Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any party in interest's rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently. Finally, the relief requested herein shall not oblige the Debtors to accept any services.

NOTICE

29. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for the District of South Carolina; (b) counsel to the Indenture Trustee (as defined in the Cherry Declaration); (c) counsel to the DIP Lender (as defined in the Cherry Declaration); (d) the Debtors' fifty (50) largest unsecured creditors (on a consolidated basis); (e) those persons who have formally appeared in the bankruptcy cases and requested service pursuant to Bankruptcy Rule 2002; and (f) all applicable government agencies to the extent required by the Bankruptcy Rules and the Local Rules. The Debtors submit that no other or further notice need be provided.

NO PREVIOUS REQUEST

30. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: February 28, 2012

Respectfully submitted,

/s/ Däna Wilkinson
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Proposed Attorneys for Debtors and Debtors in Possession

Exhibit A

INSURANCE PROGRAMS AND INSURANCE CARRIERS

Insurance Coverage	Primary Carrier	Policy Number	Expiration Date	Property / Coverage Summary	Deductibles / Limits
Property / Equipment	Philadelphia	PHPK742320	July 1, 2012	\$67,068,319 Blanket Bldg. / Contents \$3,085,000 Blanket Business Income	\$10,000 / \$50,000 Flood
Equipment Floater	Philadelphia	PHPK742320	July 1, 2012	\$6,962,255 Owned / Leased Equipment	\$1,000 per occurrence
General Liability	Philadelphia	PHPK742320	July 1, 2012	\$2,000,000 General Aggregate Limit \$1,000,000 Personal Injury \$1,000,000 each occurrence \$1,000,000 Employee Benefits Claims Made \$1,000,000 Liquor Liability Each Cause	\$5,000 Med Pay Limit
Automobile	Philadelphia	PHPK742320	July 1, 2012	\$1,000,000 Combined Single Limits \$1,000,000 25 Total Automobiles on Schedule	\$1,000 Collision \$500 Comprehensive
Workers Comp	Liberty Mutual	WCJZ91454883011	July 1, 2012	Statutory Workers Compensation Employers' Liability	\$500,000 Each Accident
Umbrella - \$10MM	Philadelphia	PHUB351387	July 1, 2012	Each Occurrence Limit / General Aggregate Limit	\$10,000,000
Excess Umbrella - \$10MM	Firemans Fund	SHX00024104135	July 1, 2012	Each Occurrence Limit / General Aggregate Limit	\$10,000,000
Marina	New Hampshire Ins. Co	LX0092715805 DMO 6909048 UL 4941058	July 1, 2012	General Liability Personal Injury Marina Operators Legal Liability Coverage Owned Watercraft	\$2,000,000 \$1,000,000 \$1,000,000 \$130,000
Wellness Centers	Admiral Ins. Co	EO000002747-08	July 1, 2012	Professional and General Liability	\$3,000,000 w/ \$5,000 Deductible

Insurance Coverage	Primary Carrier	Policy Number	Expiration Date	Property / Coverage Summary	Deductibles / Limits
Equestrian Centers	American Bankers	SL1176002	July 15, 2012	Liability \$1M / \$2M Aggregate	\$1,000,000
				Fire Damage	\$100,000
				Equestrian Umbrella	\$1,000,000
Excess Directors and Officers Liability	RSUI Indemnity	RSUI	July 1, 2012	\$2 MM Additional D&O Insurance Coverage	\$2,000,000
Directors and Officers Liability	National Union Fire	02 420 63 79	July 1, 2012	Directors and Officers Liabilities	\$3,000,000
Crime	Federal Insurance Co.	82224897	July 1, 2012	Employee Theft - Premises Coverage - Money	\$1,000,000
Builders Risk Insurance	Hartford Ins. Group	20MSJD2278	Sept 1, 2012	Builders Risk for MP Golf Course Construction	\$1,200,000 Deductible :\$2,500
EMPLOYEE	BENEFITS:				
Medical Plan 2012	BlueChoice of SC	BA801	Dec 31, 2012	Medical and vision coverage, fully insured plan	NA
Dental Plan 2012	Ameritas Group	010-037448-00001	Dec 31, 2012	Dental Coverage	NA
Cobra Administration	The Benefit Group	TheCliffs	Dec 31, 2012	Cobra Administration	NA
Life and Long Term Disability	Assurant	5456870-001	Dec 31, 2012	Life and LTD coverage for employees	NA
401(k) Administration	Fidelity	24803	Ongoing	Administration of 401(k) Plan	NA
INSURANCE	FINANCING:				
Premium Finance Agreement	Premium Funding Associates, Inc.	15-004-100506-0	May 1, 2012	Property/Equipment; General Liability; Automobile; Workers Compensation; Umbrella; Wellness Centers; Directors and Officers; Excess Directors and Officers; Marina	NA

Exhibit B

ORDER

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

Case No. 12-01220

ORDER GRANTING DEBTORS' MOTION PURSUANT TO SECTIONS 105(a), 362(d), 363(b), 363(c) AND 503(b) OF THE BANKRUPTCY CODE (I) FOR AUTHORIZATION TO (A) CONTINUE THEIR WORKERS' COMPENSATION, LIABILITY, PROPERTY, AND OTHER INSURANCE PROGRAMS, (B) PAY ALL OBLIGATIONS IN RESPECT THEREOF AND (C) ENTER INTO PREMIUM FINANCING AGREEMENTS IN THE ORDINARY COURSE OF BUSINESS, AND (II) FOR AUTHORIZATION OF FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS

The relief set forth on the following pages, for a total of 6 pages including this page is hereby **ORDERED**.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

The Cliffs Club & Hospitality Group, Inc., *et al.*,¹
d/b/a The Cliffs Golf & Country Club,

Debtors.

CHAPTER 11

Case No. 12-01220

Joint Administration Pending

ORDER GRANTING DEBTORS' MOTION PURSUANT TO SECTIONS 105(a), 362(d), 363(b), 363(c) AND 503(b) OF THE BANKRUPTCY CODE (I) FOR AUTHORIZATION TO (A) CONTINUE THEIR WORKERS' COMPENSATION, LIABILITY, PROPERTY, AND OTHER INSURANCE PROGRAMS, (B) PAY ALL OBLIGATIONS IN RESPECT THEREOF AND (C) ENTER INTO PREMIUM FINANCING AGREEMENTS IN THE ORDINARY COURSE OF BUSINESS, AND (II) FOR AUTHORIZATION OF FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS

Upon the motion (the "Motion") of The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors"), for authorization pursuant to sections 105(a), 362(d), 363(b), and 503(b) of the Bankruptcy Code² to continue the Insurance Programs, including, but not limited to, those annexed to the Motion as Exhibit A, and modify the automatic stay with respect to the Workers' Compensation Programs, all as more fully set forth in the Motion; and the Court

¹ The Debtors, followed by the last four digits of their respective taxpayer identification numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338); CCHG Holdings, Inc. (1356); The Cliffs at Mountain Park Golf & Country Club, LLC (2842); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898); The Cliffs at High Carolina Golf & Country Club, LLC (4293); The Cliffs at Glassy Golf & Country Club, LLC (6559); The Cliffs Valley Golf & Country Club, LLC (6486); Cliffs Club & Hospitality Service Company, LLC (9665).

² Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and upon the Declaration of Timothy P. Cherry in Support of the Debtors' First Day Motions, the record of the Hearing, and all of the proceedings had before the Court; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. The Debtors are authorized and empowered to maintain and renew their Insurance Programs without interruption, on the same basis, and in accordance with the same practices and procedures as were in effect prior to the commencement of the Debtors' chapter 11 cases.
3. The Debtors are authorized, but not required, to pay, in their sole discretion, all premiums, claims, deductibles, retrospective adjustments, administrative and broker's fees, and all other obligations arising under the Insurance Programs (the "Insurance Obligations") including those Insurance Obligations that were due and payable or related to the period before the commencement of these chapter 11 cases without further order of the Court, subject to terms of the DIP Budget.

4. The Debtors are authorized, but not required, to enter into new insurance premium financing agreements in the ordinary course of business as set forth in the Motion in connection with the Debtors' renewal of the existing Insurance Programs.

5. Pursuant to section 362(d) of the Bankruptcy Code, to the extent any of the Debtors' employees hold claims under the Debtors' Workers' Compensation Programs, these employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Program; provided, that such claims are pursued in accordance with the Workers' Compensation Programs and recoveries, if any, are limited to the proceeds from the applicable insurance policy.

6. Nothing in this Order nor any action taken by the Debtors in furtherance of the implementation hereof shall be deemed an approval of the assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

7. Nothing in this Order shall impair the ability of the Debtors or appropriate party in interest to contest any claim of any creditor pursuant to applicable law or otherwise dispute, contest, setoff, or recoup any claim, or assert any rights, claims or defenses related thereto.

8. The Banks are authorized consistent with the terms of any applicable cash management order entered in these cases, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay all checks drawn on or direct deposit and funds transfer instructions relating to the Debtors' accounts and any other transfers that are related to the Insurance Programs and the Insurance Obligations and the costs and expenses incident thereto; provided that sufficient funds are available in the accounts to make such payments; provided further, that: (i) any such Bank may rely on the representations of the Debtors regarding which checks that were drawn or instructions that were issued by the Debtors before the Petition

Date should be honored postpetition pursuant to this Order and (ii) that any such Bank shall not have any liability to any party for relying on the representations of the Debtors as provided herein.

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

10. Notice of the Motion as provided therein constitutes good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) are hereby waived.

11. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. This Court hereby retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

AND IT IS SO ORDERED.

Prepared and presented by:

/s/ Däna Wilkinson

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