

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

RESTAURANTS ACQUISITION I, LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 15-12406 (KG)

**DEBTOR’S MOTION FOR ENTRY OF ORDER (I) AUTHORIZING,  
BUT NOT DIRECTING, DEBTOR TO (A) MAINTAIN EXISTING  
INSURANCE PROGRAMS AND EXISTING INSURANCE PREMIUM FINANCING  
AGREEMENT, AND (B) FUND ALL OBLIGATIONS IN  
RESPECT THEREOF, (II) AUTHORIZING BANKS AND FINANCIAL  
INSTITUTIONS TO HONOR AND PROCESS ALL RELATED CHECKS AND  
ELECTRONIC PAYMENT REQUESTS, AND (III) GRANTING RELATED RELIEF**

Restaurants Acquisition I, LLC, debtor and debtor-in-possession (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”), by and through its undersigned counsel, hereby files this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), pursuant to sections 105(a), 363(b), and 503(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), (i) authorizing, but not directing, the Debtor to (a) maintain the Debtor’s existing insurance programs and premium financing agreement on an uninterrupted basis in accordance with its historical practices and (b) fund all premiums, deductibles, fees, and other obligations in respect thereof, whether relating to the prepetition or post-petition period (ii) authorizing financial institutions to honor and process all checks and electronic payment requests related to the foregoing, and (iii) granting such other and further relief as is requested herein or as the Court (as defined herein) otherwise deems necessary or appropriate. In support of this Motion, the Debtor

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<sup>1</sup> The Debtor’s mailing address is 313 East Main Street, Suite 2, Hendersonville, TN and the last four digits of its tax identification number are 8761.

submits the *Declaration of W. Craig Barber in Support of Chapter 11 Petition and First Day Pleadings of Restaurants Acquisition I, LLC* (the “First Day Declaration”), which is being filed contemporaneously herewith and is incorporated herein by reference. In further support of this Motion, the Debtor respectfully states as follows:

### **JURISDICTION**

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware* dated as of February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2) and, pursuant to Rule 9013-1(f) of the Local Rules, the Debtor consents to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

2. Venue in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105(a), 363(b), and 503(b) of the Bankruptcy Code, as supplemented by Bankruptcy Rules 6003 and 6004.

### **BACKGROUND**

4. On the date hereof (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its businesses and manage its property as a debtor and debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in the Chapter 11 Case.

5. The Debtor operates a chain of full-service restaurants throughout Texas, largely located in the Dallas-Fort Worth and Houston metropolitan area, operating under the trade-

names Black-eyed Pea and Dixie House. As of January 1, 2015, the Debtor operated thirty (30) restaurant locations (generally, the “Prepetition Stores”).

6. Since late 2013, the Debtor has experienced a decline in its cash flow performance. At the same time, the Debtor’s occupancy costs outpaced its revenues over the same period, further eroding the Debtor’s profitability. Under these circumstances, and despite the Debtor’s best efforts, the Debtor began to fall behind on its obligations to creditors. The Debtor’s liquidity crisis also caused it to fall behind on its payments to various taxing authorities, including the federal government.

7. In December 2013 and again in April 2015, the Debtor engaged investment bankers to address a recapitalization or sale of the Debtor. The Debtor received no offers as a result of this process. Due to its lack of liquidity and its inability to attract new capital, the Debtor has not be able to maintain all of the Prepetition Stores. As of the Petition Date, the Debtor has ceased operations at and/or closed fifteen (15) of its Prepetition Stores; it continues to operate fourteen (14) Black-eyed Pea restaurants and one (1) Dixie House restaurant.<sup>2</sup>

8. Additional details regarding the Debtor’s business, assets, capital structure, and the circumstances leading to the filing of this Chapter 11 Case are set forth in the First Day Declaration filed contemporaneously herewith and incorporated herein by reference as though set forth in full.

#### **INSURANCE PROGRAMS AND RELATED OBLIGATIONS**

9. In connection with the operation of the Debtor’s business, the Debtor’s parent, BEP America, Inc. (“BEP America”), maintains comprehensive insurance programs (collectively, the “Insurance Programs”) that include a variety of policies through several

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<sup>2</sup> As of the Petition Date, the Debtor has been locked out of one of these operating Prepetition Stores.

different insurance carriers (collectively, the “Insurance Carriers”). A detailed list of the Insurance Programs is annexed hereto as **Exhibit B**. The Insurance Programs name BEP America as the primary insured, and the Debtor and certain other non-debtor affiliates as additional insureds.

10. The premiums with respect to the Insurance Programs are financed pursuant to a premium financing agreement between Premium Assignment Corporation and BEP America (the “Premium Financing Agreement”), a true and correct copy of which is attached hereto as **Exhibit C**. The Debtor, while not a party to the Premium Financing Agreement, pays its *pro rata* share of the premium obligation as an additional insured.

**A. Insurance Programs**

11. BEP America maintains the Insurance Programs that protect the Debtor and its personnel against various risks that may arise in the course of the Debtor’s business.

12. In order to protect the Debtor against such risks, the Insurance Programs include the following types of coverage:

- (a) General Liability and Property Policies. BEP America maintains on behalf of the Debtor certain general liability and property insurance policies, which provide coverage for claims relating to, among other things, slip and falls and other accidents by customers while patronizing the Debtor’s restaurants, sickness caused by food served, damage to property used by the Debtor in its restaurant operations.
- (b) Workers Compensation Policies. BEP America maintains on behalf of the Debtor certain workers compensation policies which provide coverage for injuries suffered by the Debtor’s employees in the course of their employment.
- (c) Management Liability Policy. BEP America maintains a management liability policy on the Debtor’s behalf that covers its directors, officers, managers and business entities from claims arising out of their governance, finance, benefits, employment and management activities on behalf of the Debtor.

- (d) Auto Liability Policy. BEP America maintains a business auto liability policy on the Debtor's behalf which provides automobile coverage for vehicles used in Debtor's business, including for off-site deliveries and catering.
- (e) Liquor Liability Policy. BEP America maintains a liquor liability policy which protects the Debtor against loss or damage claimed as the result of a patron of the Debtor becoming intoxicated and injuring themselves or others.

13. The Debtor seeks from the Court authorization, but not direction, to maintain the Insurance Programs on an uninterrupted basis in accordance with its historical practices.

**B. Insurance Obligations**

14. The Debtor has indirectly incurred and continues to incur certain obligations relating to the Insurance Programs (such obligations, including those which accrued prior to the Petition Date, the "Insurance Obligations"). The Insurance Obligations are the direct obligation of BEP America. However, absent payments made by the Debtor to BEP America for the purpose of funding the Insurance Obligations, the Insurance Programs and the Premium Financing Agreement will not be funded and the Debtor's coverage under the Insurance Programs can be voided. Disruption of the Debtor's insurance coverage will expose the Debtor to serious risks, including possibly (a) incurring direct liability for the payment of claims that otherwise would have been payable by the Insurance Carriers under the Insurance Programs, (b) incurring material costs and other losses that otherwise would have been reimbursed by the Insurance Carriers under the Insurance Programs, (c) losing good-standing certification to conduct business inasmuch as the jurisdiction in which it operates requires the Debtor to maintain certain levels of insurance coverage, (d) being unable to obtain similar types of insurance coverage, and (e) incurring higher costs for re-establishing lapsed policies or obtaining new equivalent coverage.

15. The different categories of Insurance Obligations include (a) fixed-rate premiums based on a rate established by each Insurance Carrier, which are generally payable on an annual basis, but which are financed through the Premium Financing Agreement, (b) deductibles and other fees related to the Insurance Programs, all or a portion of which the Debtor funds out of cash flow in the ordinary course of business, (c) payments to insurance agents and brokers who assist with the procurement and negotiation of the Insurance Programs, which payments are generally financed through the Premium Financing Agreement, and (d) monthly payments in the amount of \$55,950.92, which BEP America makes pursuant to the Premium Financing Agreement and for which the Debtor reimburses BEP America in the ordinary course of business in the amount of \$46,452 each month. The Debtor also funded \$81,307 toward the down payment on the Premium Financing Agreement.

16. In the aggregate, during the 12 month period preceding the Petition Date, the Debtor has paid approximately \$545,837 to BEP America to facilitate the payment of Insurance Obligations. As of the Petition Date, approximately \$223,803.68 in Insurance Obligations will be due, principally for the policy period ending April 30, 2016, which will go unpaid if the Debtor does not facilitate such payments by funding its pro-rata share of approximately \$188,834.36.

17. Accordingly, the Debtor seeks this Court's authorization, but not direction, to pay any such outstanding amounts up to the Insurance Obligations Cap (as defined herein).

#### **RELIEF REQUESTED**

18. By this Motion, the Debtor respectfully request the entry of an Order substantially in the form annexed hereto as Exhibit A, pursuant to sections 105(a), 363(b), and 503(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (a) authorizing, but not directing, the Debtor to (i) maintain the Insurance Programs and the Premium Financing Agreement on an

uninterrupted basis in accordance with its historical practices, (ii) fund all Insurance Obligations, whether relating to the pre-petition or post-petition period up to a maximum aggregate amount of \$200,000.00 (the “Insurance Obligations Cap”), including reimbursing BEP America for payments made by BEP America in satisfaction of such Insurance Obligations, (b) authorizing financial institutions to honor and process all checks and electronic payment requests related to the foregoing, and (c) granting such other and further relief as is requested herein or as the Court otherwise deems necessary or appropriate.

### **BASIS FOR RELIEF**

#### **A. Ample Authority Exists to Continue to Maintain Insurance Coverage**

19. The Debtor submits that appropriate circumstances exist to justify the continuation of the Insurance Programs in the ordinary course of business, as contemplated by this Motion. The relief requested in this Motion will help minimize any disruption in the Debtor’s business operations during the period between the Petition Date and confirmation of a chapter 11 plan, as well as after its emergence from chapter 11, thereby preserving the value of the Debtor’s estate. Moreover, this relief is necessary to avoid immediate and irreparable harm to the Debtor and its estate.

20. This Court can authorize the proposed continuation of the Insurance Programs and the payment of Insurance Obligations in the ordinary course of the Debtor’s business. As an initial matter, the Court may authorize the Debtor to continue the Insurance Program and pay the Insurance Obligations arising from or relating to the period before the Petition Date pursuant to section 363(b) of the Bankruptcy Code. This section provides that “the 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). To approve the use of a Debtor’s assets outside the ordinary course of business pursuant to this section, the Court must find that a sound business reason

exists for the use of such assets. *See, e.g., In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that court may authorize payment of prepetition claims if such payment is essential to debtor's continued operation); *In re Ames Holding Corp.*, 2010 WL 2822030, at \*3, (Bankr. D. Del. Feb. 7, 2010); *In re MPC Computers, LLC*, Case No. 08-12667 (PJW) (Bankr. D. Del. Nov. 10, 2008) [Docket No. 30]; *In re Overseas Shipping Group, Inc.*, Case No. 12-20000 (PJW) (Bankr. D. Del. Dec. 7, 2012) [Docket No. 147]; *Official Comm. of Unsecured Creditors v. Enron Corp. (In re Enron Corp.)*, 335 B.R. 22, 27-28 (S.D.N.Y. 2005) (quoting *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983)).

21. The relief requested in this Motion is necessary for the Debtor to continue its operations during the pendency of the Chapter 11 Case. If the Insurance Programs lapse, the Debtor will be required to obtain replacement insurance, likely at a cost greater than the cost of the current Insurance Programs. Furthermore, replacing the Insurance Programs would divert the time and resources of the Debtor's officers and/or managers away from the restructuring process. As such, the Debtor submits that the relief sought herein is in the best interest of the Debtor and its estate and will prevent immediate and irreparable harm.

22. Additionally, the Court may authorize the continuation of the Insurance Programs and the payment of the Insurance Obligations pursuant to its equitable powers, either under section 105(a) of the Bankruptcy Code or through the "doctrine of necessity" or the "necessity of payment" doctrine, which allow a bankruptcy court to exercise its equitable power, allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code, and further support the relief requested herein. *Lehigh & New England Ry. Co.*, 657 F.2d at 581 (noting that in order to justify payment under "doctrine of necessity," such payment must be essential to continued operation of debtor). Section 105(a) of the Bankruptcy Code further



empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Under section 105(a) of the Bankruptcy Code, courts may permit payments on account of prepetition obligations outside the context of a chapter 11 plan when such obligations are essential to the continued operation of a debtor’s business. *See, e.g., In re Just For Feet, Inc.*, 242 B.R. 821, 824 (Bankr. D. Del. 1999) (acknowledging that “[c]ertain pre-petition claims . . . may need to be paid to facilitate a successful reorganization” and that “[s]ection 105(a) of the [Bankruptcy] Code provides a statutory basis for the payment of pre-petition claims”); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (explaining that doctrine of necessity is standard in Third Circuit for enabling court to authorize payment of prepetition claims prior to confirmation of reorganization plan); *In re Boston & Maine Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (stating that court has power to authorize payments of claims for goods and services that are necessary to debtor’s continued operation as going concern); *In re Ionosphere Clubs*, 98 B.R. 174, 177 (Bankr. S.D.N.Y. 1989) (stating that section 105(a) of Bankruptcy Code permits payment of prepetition claims where necessary to rehabilitate debtor).

23. Finally, the Court can find that the continuation of the Insurance Programs and the payment of Insurance Obligations are a valid exercise of the Debtor’s fiduciary duties. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, a debtor-in-possession is a fiduciary. Ample authority exists to allow payment of the Insurance Obligations and continuation of the Insurance Programs, as courts have generally acknowledged that it is appropriate to authorize the payment (or other special treatment) of prepetition obligations where necessary to protect and preserve the estate, including an operating business’s going-concern value. *See In re Ionosphere Clubs, Inc.*, 98 B.R. at 175 (noting that where sound business reasons are demonstrated,

including preservation of debtor's business and protection of its ability to reorganize, payment of prepetition wages, salaries, and business expenses is justified); *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) ("There are occasions when this [fiduciary] duty can only be fulfilled by the preplan satisfaction of a prepetition claim.").

24. Courts in this District have granted relief similar to the relief requested herein under section 363(b) of the Bankruptcy Code. *See, e.g., In re Frederick's of Hollywood, Inc.*, No. 15-10836 (KG) (Bankr. D. Del. May 17, 2015) (authorizing debtors to pay prepetition premiums and enter into new insurance policies pursuant to section 363(b) of the Bankruptcy Code); *In re RadioShack Corp.*, No. 15-10197 (BLS) (Bankr. D. Del. Feb. 9, 2015) (same); *In re Powerwave Techs., Inc.*, No. 13-10134 (MFW) (Bankr. D. Del. Feb. 22, 2013) (same); *In re School Specialty, Inc.*, No. 13-10125 (KJC) (Bankr. D. Del. Jan. 30, 2013) (same); *In re CP Liquidating, Inc. (f/k/a Carl's Patio, Inc.)*, No. 13-10102 (KG) (Bankr. D. Del. Jan. 23, 2013) (same); *In re Vertis Holdings, Inc.*, No. 12-12821 (CSS) (Bankr. D. Del. Nov. 1, 2013) (same); *In re Adoc Holdings Inc. (f/k/a Coda Holdings, Inc.)*, No. 13-11153 (CSS) (Bankr. D. Del. May 3, 2013) (same). Courts in this District have also granted relief similar to the relief requested herein under section 105(a) of the Bankruptcy Code. *See, e.g., In re Amicus Wind Down Corp. (f/k/a Friendly Ice Cream Corp.)*, No. 11-13167 (KG) (Bankr. D. Del. Oct. 6, 2011).

25. In this case, the continuation of the Insurance Programs and payment of the Insurance Obligations are imperative to the Debtor's continued operations, ability to restructure, and preservation of value of its estate. It is essential for the Debtor to carry insurance in its day-to-day operations, or it runs the risk of, among other harms, incurring financial responsibility and legal liability for potential occurrences not covered by insurance. Moreover, in many cases,

coverage provided by the Insurance Policies is required by the regulations, laws, and contracts that govern the Debtor's commercial activities.

26. The Debtor needs to minimize the risks associated with operating its business. Even a brief delay or suspension in the Debtor's ability to pay the Insurance Obligations could create significant risk that the Debtor would void or otherwise lose the benefits of the Insurance Programs. Disruption of the Debtor's insurance coverage would expose the Debtor to serious risks, including possibly (a) incurring direct liability for the payment of claims that otherwise would have been payable by the Insurance Carriers under the Insurance Programs, (b) incurring material costs and other losses that otherwise would have been reimbursed by the Insurance Carriers under the Insurance Programs, (c) losing good-standing certification to conduct business in jurisdictions requiring the Debtor to maintain certain levels of insurance coverage, (d) being unable to obtain similar types of insurance coverage, and (e) incurring higher costs for re-establishing lapsed policies or obtaining new equivalent coverage.

27. Accordingly, the Court should grant the relief requested herein because maintenance of the Insurance Programs and payment of all Insurance Obligations are warranted and are in the best interests of the Debtor's estate, creditors, and all other parties-in-interest.

**B. Cause Exists To Authorize Debtor's Financial Institutions To Honor Checks and Electronic Payment Requests**

28. To facilitate implementation of the above-requested relief, the Debtor believes it is appropriate for the Court to authorize all applicable banks and financial institutions to receive, process, honor, and pay any and all wire transfer requests, checks drawn, drafts issued, or electronic fund transfers from the Debtor's accounts whether such checks were presented prior to or after the Petition Date, to the extent such checks or electronic fund transfers are expressly identified by the Debtor as relating directly to the payments authorized pursuant to this Motion.

Furthermore, the Court should authorize the Debtor to issue new post-petition checks, or effect new electronic fund transfers, on account of the Insurance Obligations, and to replace any prepetition checks or electronic fund transfer requests that may have been dishonored or rejected as a result of the commencement of the Chapter 11 Case, regardless of whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date; provided, however, that (a) funds are available in the Debtor's accounts to cover the checks and fund transfers and (b) all the banks and other financial institutions are authorized to rely on the Debtor's designation of any particular check as approved by the Order.

29. The Debtor believes that it has sufficient availability of funds to pay the amounts described herein in the ordinary course of business by virtue of cash reserves, expected cash flows from business operations, and/or debtor-in-possession financing received from a post-petition lender.<sup>3</sup> Pursuant to the Debtor's existing cash management system, the Debtor believes that checks or electronic payment requests can be readily identified as relating to an authorized payment made pursuant to orders entered by the Court. Accordingly, the Debtor believes that checks or electronic payment requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable financial institutions should be authorized, when requested by the Debtor, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the Insurance Obligations.

30. In light of the foregoing, the Debtor respectfully submits that the relief requested herein is necessary and appropriate, is in the best interests of its estate and creditors, and should be granted in all respects.

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<sup>3</sup> The Debtor is exploring various debtor-in-possession financing opportunities and expects to file, either contemporaneously with the filing of this Motion or soon thereafter, a motion seeking authority to use cash collateral.

**RESERVATION OF RIGHTS**

31. To the extent that any contract or agreement in connection with any of the Insurance Programs is deemed an executory contract within the meaning of section 365 of the Bankruptcy Code, the Debtor does not at this time intend to assume or reject such contract or agreement. As such, the Court's authorization of payment shall not be deemed to constitute an assumption of such contract or agreement pursuant to section 365 of the Bankruptcy Code. The Debtor is currently in the process of reviewing all of its contracts and agreements and reserves all of its rights with respect thereto. Nothing herein shall acknowledge, grant, or otherwise permit any right of offset or recoupment by a non-debtor with respect to any claim asserted against the Debtor. If the Court grants the relief sought herein, any payments made pursuant to the Court's order are not intended and should not be construed as an admission to the validity of any claim or a waiver of the rights of the Debtor to dispute such claim subsequently.

32. Additionally, except as expressly stated herein, nothing contained herein is intended or should be construed as (a) an agreement or admission by the Debtor as to the validity of any claim against its estate, (b) a waiver or impairment of the Debtor's right to dispute any claim on any grounds, (c) a promise by the Debtor to pay any claim, or (d) an implication or admission by the Debtor that such claim is payable pursuant to an Order granting the relief requested in this Motion.

**DEBTOR SATISFIES BANKRUPTCY RULE 6003**

33. Bankruptcy Rule 6003 provides that, "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding ... a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate . . . ." Fed. R. Bankr. P. 6003(b). The Debtor submits

that, because the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtor for the reasons set forth herein, Bankruptcy Rule 6003 has been satisfied.

**WAIVER OF BANKRUPTCY RULE 6004(a) AND 6004(h)**

34. To implement successfully the foregoing requested relief, the Debtor respectfully requests 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). Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” As set forth above, the payments proposed herein are essential to prevent potentially irreparable damage to the Debtor’s operations, value, and ability to reorganize. Accordingly, the Debtor submits that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

**NO PREVIOUS REQUEST**

35. No prior motion for the relief requested herein has been made by the Debtor to this or any other court.

**NOTICE**

36. The Debtor will provide notice of this Motion to: (a) the Office of the U.S. Trustee; (b) the holders of the 20 largest unsecured claims against the Debtor; (c) the United States Attorney’s Office for the District of Delaware; (d) the Internal Revenue Service; (e) Grove Family Investments, L.P. and its counsel; (f) CNL Financial Group, Inc. and its counsel; (g) American Express Bank, FSB and its counsel; (h) each of the Insurance Carriers; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking “first day” relief, within two business days of the hearing on this Motion, the Debtor will serve copies of this Motion and any order entered with respect to this Motion as required by Local

Rule 9013-1(m). The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, for the reasons set forth above and in the First Day Declaration, the Debtor respectfully requests that the Court enter the Order substantially in the form annexed hereto as **Exhibit A** (i) authorizing, but not directing, the Debtor to (a) maintain the Insurance Programs and the Premium Financing Agreement on an uninterrupted basis in accordance with its historical practices and (b) fund all Insurance Obligations, whether relating to the prepetition or post-petition period, including reimbursing BEP America for payments made by BEP America in satisfaction of such Insurance Obligations, (ii) authorizing financial institutions to honor and process all checks and electronic payment requests related to the foregoing, and (iii) granting such other and further relief as is requested herein or as the Court otherwise deems necessary or appropriate.

Respectfully submitted,

Dated: December 2, 2015

DUANE MORRIS LLP

/s/ Sommer L. Ross

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*Proposed Counsel to Debtor and Debtor-in-Possession Restaurants Acquisition I, LLC*

**EXHIBIT A**

**Proposed Order**



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

RESTAURANTS ACQUISITION I, LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No. 15-12406 (KG)

Related to Docket No. \_\_\_\_

**ORDER (I) AUTHORIZING,  
BUT NOT DIRECTING, DEBTOR TO (A) MAINTAIN EXISTING  
INSURANCE PROGRAMS AND PREMIUM FINANCING AGREEMENT, AND  
(B) FUND ALL OBLIGATIONS IN RESPECT THEREOF, (II) AUTHORIZING  
BANKS AND FINANCIAL INSTITUTIONS TO HONOR AND PROCESS ALL  
RELATED CHECKS AND ELECTRONIC PAYMENT REQUESTS,  
AND (III) GRANTING RELATED RELIEF**

Upon the Motion (the “Motion”)<sup>2</sup> of Restaurants Acquisition I, LLC, debtor and debtor-in-possession (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”), for entry of an order (the “Order”), pursuant to sections 105(a), 363(b), and 503(a) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (i) authorizing, but not directing, the Debtor to (a) maintain the Insurance Programs and the Premium Financing Agreement on an uninterrupted basis in accordance with its historical practices and (b) fund all Insurance Obligations, whether relating to the prepetition or post-petition period, including reimbursing BEP America for payments made by BEP America in satisfaction of such Insurance Obligations, (ii) authorizing financial institutions to honor and process all checks and electronic payment requests related to the foregoing, and (iii) granting such other and further relief as is requested in the Motion or as the Court otherwise deems necessary or appropriate; and the Court having

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<sup>1</sup> The Debtor’s mailing address is 313 East Main Street, Suite 2, Hendersonville, TN and the last four digits of its tax identification number are 8761.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings set forth in the Motion or the First Day Declaration, as applicable.

jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, creditors, and other parties-in-interest; and the Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and the Court having reviewed and considered the Motion and the First Day Declaration; and the Court having heard the statements in support of the relief requested in the Motion at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing 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 hereby ORDERED that:

1. The Motion is granted as set forth herein.
2. The Debtor is authorized, but not directed, in its sole discretion, to maintain, continue, and renew the Insurance Programs and the Premium Financing Agreement on an uninterrupted basis and in accordance with the same practices and procedures as were in effect prior to the Petition Date.
3. The Debtor is authorized, but not directed, in its sole discretion, to fund any Insurance Obligations, including reimbursing BEP America for payments made by BEP America in satisfaction of such Insurance Obligations; provided, however, that such payments and transfers shall be subject to the Insurance Obligations Cap.

4. The Debtor is authorized, in its sole discretion, to revise, extend, supplement, or change insurance coverage as needed, including entering into new insurance policies (*e.g.*, through renewal of the Insurance Programs or purchase of new policies).

5. All applicable banks and other financial institutions are authorized to receive, process, honor, and pay any and all prepetition wire transfer requests, checks drawn, drafts issued, and electronic funds transfers by the Debtor and related to the payment of the Insurance Obligations, whether prior to or after the Petition Date.

6. The Debtor is authorized to issue new post-petition checks, or effect new electronic fund transfers, on account of the Insurance Obligations, and to replace any prepetition checks or electronic fund transfer requests that may have been dishonored or rejected as a result of the commencement of the Chapter 11 Case, regardless of whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date; provided, however, that (a) funds are available in the Debtor's accounts to cover the checks and fund transfers and (b) all the banks and other financial institutions are authorized to rely on the Debtor's designation of any particular check as approved by this Order.

7. Nothing in this Order or any action taken by the Debtor in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and all of the Debtor's rights with respect to such matters are expressly reserved.

8. Nothing in this Order nor the Debtor's payment of claims pursuant to this Order shall be construed as (a) an agreement or admission by the Debtor as to the validity of any claim on any grounds, (b) a waiver or impairment of any Debtor's rights to dispute any claim on any grounds, (c) a promise by the Debtor to pay any claim, or (d) an implication or admission by the

Debtor that such claim is payable pursuant to this Order. Nothing herein shall acknowledge, grant, or otherwise permit any right of offset or recoupment by a non-debtor with respect to any claim asserted against the Debtor.

9. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

10. Notwithstanding the possible applicability of Bankruptcy Rules 6004(a) and 6004(h) or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry and the requirements of Bankruptcy Rules 6004(a) and 6004(h) are hereby waived.

11. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

12. The Court retains jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

Dated: December \_\_, 2015  
Wilmington, Delaware

---

Honorable Kevin Gross  
United States Bankruptcy Judge

**EXHIBIT B**

**List of Insurance Programs**

**LIST OF INSURANCE PROGRAMS**

<b>Policy Holder</b>	<b>Type of Policy</b>	<b>Insurance Company</b>	<b>Term</b>	<b>Policy #</b>	<b>Annual Premiums</b>	<b>Estimated Amount Outstanding</b>
BEP America, Inc.	General Liability	Liberty Mutual Fire Insurance Co.	4/30/2015 – 4/30/2016	TB2-Z91-441299-045	\$150,185*	
BEP America, Inc.	Property	Liberty Mutual Fire Insurance Co.	4/30/2015 – 4/30/2016	YU2-Z91-441299-055	\$154,289*	
BEP America, Inc.	Liquor Liability	Liberty Mutual Fire Insurance Co.	4/30/2015 – 4/30/2016	TO2-Z91-441299-034	\$5,847*	
BEP America, Inc.	Umbrella	Liberty Insurance Corporation	4/30/2015 – 4/30/2016	TH7-Z91-441299-064	\$33,732*	
BEP America, Inc.	Business Auto	Liberty Insurance Corporation	4/30/2015 – 4/30/2016	AS7-Z91-441299-024	\$4,881*	
BEP America, Inc.	Management Liability	HISCOX Insurance Company Inc.	4/30/2015 – 4/30/2016	UVA1418564.15	\$39,932*	
BEP America, Inc.	Workers Compensation	Argonaut Insurance Company	4/30/2015 – 4/30/2016	WC 928018371404	\$39,739*	
BEP America, Inc.	Workers Compensation	Texas Mutual Insurance Company	4/30/2015 – 4/30/2016	TSF-0001268763 20150430	\$170,448*	
BEP America, Inc.	Premium Financing	Premium Assignment Corporation	4/30/2015 – 4/30/2016	N/A	\$657,440.87	\$223,803.68

\* All premiums financed through the Premium Financing Agreement.

**EXHIBIT C**

**Premium Financing Agreement**

# PREMIUM ASSIGNMENT CORPORATION

## PREMIUM FINANCE AGREEMENT

\*\*\*D488700\*\*\*

Tennessee

P.O. Box 8800 - 3522 Thomasville Rd.

Tallahassee, FL 32314

Phone 850-907-5610

☐ PERSONAL    ☒ COMMERCIAL    ☐ NEW    ☒ AGENCY RENEWAL    ☐ ADD'L PREMIUM  
 THIS AGREEMENT, made effective the 30 day of April 2015, between  
**BEP AMERICA INC.**  
 (Name of Borrower/Insured exactly as it appears in financed policies)  
 ADDRESS 313 E MAIN ST STE 2  
 CITY HENDERSONVILLE STATE TN ZIP 37075 PHONE # \_\_\_\_\_  
 hereinafter called the Borrower, and Premium Assignment Corporation, a Florida Corporation hereinafter called Lender, for the purpose of financing the purchase of insurance policies described in the Scheduled Policies of Insurance listed in page 3 to this Agreement.

TOTAL PRICE OF PREMIUMS	- CASH DOWN PAYMENT	= PRINCIPAL BALANCE OWED ON PREMIUMS	+ DOC STAMPS & SERVICE FEE (if applicable)	= TOTAL AMOUNT FINANCED	+ FINANCE CHARGE (Interest costs over term of loan)	= TOTAL OF PAYMENTS (Amount paid if all payments made as scheduled)	ANNUAL INTEREST RATE
652,877.82	97,931.67	554,946.15	0.00	554,946.15	4,563.05	559,509.20	1.79

SELECT BILLING OPTION: ☐ Payment Book ☒ Monthly Invoice  
☐ Direct Debit  
**YOUR PAYMENT SCHEDULE WILL BE:**  
 Each monthly payment due on same day of each succeeding month until paid in full.

Amount of Monthly Payment	Number of Payments	Date First Payment is Due
55,950.92	10	5/30/2015

**FOR VALUE RECEIVED, BORROWER PROMISES TO PAY** to the order of Lender at the address given at the top of this page, the Total Amount Financed and all sums shown above, including interest at the Annual Interest Rate and other charges as described hereinafter, pursuant to the terms stated below and in page 2 of this Agreement.

- SECURITY FOR PAYMENT:** To secure payment of all sums due under this Agreement, Borrower grants Lender a security interest in any unearned premiums or other sums which may become payable under the Scheduled Policies of Insurance shown on page 3.
- LIMITED POWER OF ATTORNEY:** BORROWER IRREVOCABLY APPOINTS LENDER AS ATTORNEY-IN-FACT TO CANCEL THE SCHEDULED POLICIES OF INSURANCE AFTER BORROWER DEFAULTS IN MAKING PAYMENTS UNDER THIS AGREEMENT.
- NOTICE TO BORROWER:** (1) Do not sign this Agreement before you read it, or if it contains any blank space (other than as provided on the next page), (2) You are entitled to have and should retain a completely filled in copy of this Agreement, and (3) BY SIGNING BELOW BORROWER AGREES TO THE PROVISIONS ABOVE AND ALL OF THE TERMS WHICH APPEAR ON THE SECOND PAGE OF THIS AGREEMENT AND ACKNOWLEDGES RECEIPT OF COPIES OF PAGES 1, 2 AND 3 OF THIS AGREEMENT.

SIGNATURE OF ALL INSURED[S] NAMED IN POLICIES OR AUTHORIZED AGENT OF INSURED[S], AS PERMITTED BY LAW:

5/7/15 X W Craig Parker, President

Date \_\_\_\_\_ Name and Title: \_\_\_\_\_ Date \_\_\_\_\_ Name and Title: \_\_\_\_\_

### PRODUCER'S REPRESENTATIONS & WARRANTIES:

The undersigned Producer represents and warrants that: (A) The Cash Down Payment shown above has been paid by or on behalf of the Borrower. (B) The Total Price of Premiums shown above has been or will be used to purchase insurance policies shown in the Scheduled Policies of Insurance on page 3 of this Agreement. Any portion of the Total Price of Premiums received by Producer that is not used to purchase such insurance policies, as well as any refunds or credits on such policies, shall be promptly paid to Lender. (C) To the best of the undersigned's knowledge and belief, Borrower is not subject to any bankruptcy or insolvency proceedings and Producer has no reason to believe that Borrower is insolvent. (D) The Borrower's signature(s) is (are) genuine and authorized, or to the extent permitted by applicable law, the Producer has been authorized by Borrower to sign this Agreement on Borrower's behalf. (E) Producer has delivered or will deliver a copy of this Agreement to Borrower. **Producer agrees that the Representations & Warranties above, as well as those on page 3 of this Agreement, are a binding contract between Producer and Lender.**

### PRODUCER / AGENCY

Name STEPHENS INS LLC/LITTLE ROCK  
 Address 111 CENTER ST STE 1410  
LITTLE ROCK, AR 72201

Date \_\_\_\_\_

PRODUCER'S SIGNATURE \_\_\_\_\_





**IN CONSIDERATION** of the payment by Lender of the Principal Balance Owed on Premiums shown on page 1 to the insurance companies named in the Scheduled Policies of Insurance shown on page 3 (or the agents of such companies), the Borrower agrees:

- 4. ACCEPTANCE DATE** This Agreement is binding upon its acceptance by Lender. Acceptance shall occur upon payment of the Principal Balance Owed on Premiums to the insurance companies named in the Scheduled Policies of Insurance, or the agents of such companies.
- 5. PAYMENTS** Borrower shall make payments directly to Lender in the amounts and at the same time specified on page 1 of this Agreement. Payments shall be made at Lender's address given at the top of page 1 or such other address as Lender may direct in writing. Payments made to any other address, person, firm, corporation or insurance agency (including but not limited to the Producer) shall not constitute payment to Lender. Payments received after cancellation of the Scheduled Policies of Insurance shall be credited to the unpaid balance due under this Agreement and shall not constitute reinstatement of the cancelled policies, nor shall it constitute a waiver by Lender of any rights.
- 6. LATE CHARGES** If a payment is more than 10 days late, Borrower agrees to pay a late charge of 5% of each delinquent or unpaid installment, unless prohibited by applicable law.
- 7. DEFAULT/CANCELLATION** A default shall occur if Borrower fails to pay any sums required by this Agreement in a timely manner, including interest and Late Charges, or if Borrower fails to carry out any other obligations under this Agreement. After default, any unpaid balance of the Total Amount Financed may become immediately due and payable in full at the option of Lender, and Lender may enforce its security interest and its rights under the Limited Power of Attorney. Interest will continue to accrue on the unpaid balance at the Annual Percentage Rate or maximum rate allowed by applicable law, at the option of Lender, until all balances owed under this Agreement are paid. Lender may request cancellation of all or any of the Scheduled Policies of Insurance at the earliest time after default permitted by applicable law. Should Lender cancel the Scheduled Policies of Insurance, Borrower agrees to pay Lender a cancellation fee of \$5 as permitted by applicable law.
- 8. EXCESS INTEREST OR FEES** It is the intent of the Lender that no interest, fee or charge in excess of that permitted by applicable law will be charged, taken or become payable under this Agreement. In the event it is determined that Lender has taken, charged or accrued interest, fees or charges in excess of that permitted under law, such excess shall be returned to Borrower or credited against the sum due Lender hereunder.
- 9. REFUNDS** The Borrower will receive a refund of the finance charge if the account is prepaid in full prior to the last installment due date. The refund shall be computed according to applicable law subject to a nonrefundable service charge of 4% of the loan.
- 10. SHORTAGE OR OVERAGE OF RETURNED PREMIUM** If Lender does not receive unearned premiums or other funds after cancellation or expiration of the Scheduled Policies of Insurance in an amount sufficient to pay the unpaid balance due under this Agreement, Borrower agrees to pay the deficiency to Lender on demand. Interest shall accrue on the deficiency at the Annual Percentage Rate, or the maximum rate allowed by applicable law, at the option of Lender. If the unearned premiums received by Lender are more than the amount due under this Agreement, the excess shall be returned to Borrower within the time allowed by applicable law. Borrower has no right to any excess of less than the minimum amount required to be paid by applicable law.
- 11. ATTORNEYS FEES/COURT COSTS** Borrower agrees to pay all attorneys fees, expenses and costs incurred by Lender in collecting amounts due from Borrower under this Agreement, including attorneys fees incurred on appeal and in bankruptcy, unless prohibited or limited by applicable law.
- 12. LENDER RELATIONSHIP** Borrower acknowledges that: (a) Lender is not an insurance agent nor an insurance company, (b) This Agreement is a financing agreement and not an insurance policy or guarantee of insurance coverage, (c) Lender has played no part in the selection or structuring of the financed insurance policies, (d) Lender has no obligation to request reinstatement of any insurance policies properly cancelled after a default under this Agreement, and (e) The decision of whether to reinstate insurance coverage is made solely by the insurance companies providing coverage, not Lender.
- 13. ADDITIONAL PREMIUMS** Lender may advance to Producer, as Borrower's agent, or to an insurance company any additional premiums that may become due, less normal down payment, adding the advanced amount, plus any finance charge, to Borrower's balance under this Agreement. However, any additional premium which is owed to the insurance company(ies) named in the Scheduled Policies of Insurance as a result of any misclassification of risk which is not paid in full or financed in this Agreement may result in cancellation of the coverage by the insurance company for nonpayment of premium. Lender's payment shall not be applied by the insurer to pay for any additional premium owed by Borrower as a result of any misclassification of risk.
- 14. LENDER LIABILITY** Lender is not responsible for any damages resulting from cancellation of the Scheduled Policies of Insurance by Lender, as long as the cancellation was done in accordance with applicable law. Borrower shall be responsible for Lender's reasonable attorneys fees and expenses for any unsuccessful action filed by Borrower seeking damages for improper cancellation. Lender's liability for breach of this Agreement shall be limited to the Principal Balance Financed under this Agreement, if permitted by applicable law.
- 15. RETURNED CHECKS** Borrower agrees to pay a returned check fee, as allowed by applicable law, for each of Borrower's checks returned to Lender for Insufficient funds or because the insured has no account in the payor bank.
- 16. WARRANTIES OF BORROWER** Borrower warrants that: (a) Each of the Scheduled Policies of Insurance have been issued or a binder has been issued; (b) Borrower has not and will not assign or encumber any unearned premium of the Scheduled Policies of Insurance or grant a power of attorney to cancel the Scheduled Policies of Insurance to anyone other than Lender until all sums due under this Agreement are paid in full; (c) Lender may assign all its rights under this Agreement as allowed by applicable law; (d) No proceeding in bankruptcy or insolvency has been instituted by or against Borrower or is contemplated by Borrower, and (e) No insurance financed by this Agreement was purchased for personal, family or household purposes, unless so indicated on page 1.
- 17. INTEREST CALCULATION** Interest is computed on an annual basis of 12 months of 30 days on the balance of the Total Amount Financed, from the effective date of the earliest insurance policy for which premiums are being advanced to the date when all sums due under this Agreement are paid.
- 18. BLANK SPACES** Borrower agrees that if any policy financed by this Agreement has not been issued at the time the Agreement is signed, the names of the insurance companies issuing the financed policies, the policy numbers and the due date of the first installment may be inserted in the Agreement after it is signed.
- 19. GOVERNING LAW** The Parties agree that the law of the state in which this Agreement is executed shall control the interpretation of the Agreement and the rights of the parties, unless the Agreement is executed in a state without premium finance laws, in which case the law of the State of Florida shall govern.
- 20. SAVINGS AND MERGER CLAUSE** The Parties agree that if one or more portions of this Agreement are found to be invalid or unenforceable for any reason, the remaining portions shall remain fully enforceable. The parties also agree that this Agreement contains the entire agreement between the parties regarding the subject matter herein and supersedes any prior discussions.
- 21. FINANCING OPTION** Entry into this financing arrangement is not a condition of obtaining insurance. You may opt to pay the premium for such insurance without financing such premium, or to obtain financing from some other source if you choose.





State: TN

**SCHEDULED POLICIES OF INSURANCE**

BEP AMERICA INC RESTAURANT ACQUISITION I LLC  
313 E MAIN ST STE 2  
HENDERSONVILLE, TN 37075

STEPHENS INS LLC/LITTLE ROCK  
111 CENTER ST STE 1410  
LITTLE ROCK, AR 72201  
(501) 377-2300

V8(0)NI1.79P-1.24

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Premium	Down Payment	Unpaid Balance	Doc Stamps/Fees	Amt. Financed	Finance Charges	Total / Payments
652,877.82	97,931.67 (15.00 %)	554,946.15	0.00	554,946.15	4,563.05	559,509.20

Payment	Payments	Rate	First Due	Type	Status	Contract Type
55,950.92	10	1.79 %	5/30/2015	INVOICE	RENEW	COMMERCIAL

EFF DATE	COMPANY / BROKER	CITY	ST	CO. #	TYPE MEP	POLICY NO.	TOTAL PREMIUM
EXP DATE							
4/30/2015	CO: LIBERTY MUTUAL INS	NEW YORK	NY	85228	GL	TB2Z9144	150,185.00
4/30/2016	MGA:				0.00 %	1299045	
4/30/2015	CO: LIBERTY MUTUAL INS	NEW YORK	NY	85228	BA	AS7Z9144	4,877.00
4/30/2016	MGA:				0.00 %	1299025	
						Taxes/Fees	4.00
						Total	4,881.00
4/30/2015	CO: TEXAS MUTUAL INS CO	AUSTIN	TX	83531	WC	000126876	170,448.00
4/30/2016	MGA:				0.00 %	3	
4/30/2015	CO: ARGONAUT INS CO	SAN ANTONIO	TX	87219	WC	WC928018	39,739.00
4/30/2016	MGA:				0.00 %	371404	
4/30/2015	CO: LIBERTY MUTUAL FIRE INS	IRVING	TX	87050	LIQR	TO2Z9144	5,847.00
4/30/2016	MGA:				0.00 %	1299035	

Created By: UFDK30

Auth Code:

**ADDITIONAL REPRESENTATIONS & WARRANTIES OF PRODUCER**

(F) All information provided above is complete and correct in all respects and the policies listed above are or will be in force on the stated Effective Date and delivered by Producer to the Borrower, except for assigned risk or residual market policies.

(G) If any information listed above is or becomes incomplete or inaccurate, Producer shall promptly provide correct information to Lender.

(H) The Producer is an authorized policy issuing agent of the companies issuing the policies listed above or is the authorized agent of the MGA or broker placing the coverage directly with the insuring company, **except those policies indicated with an "X"**.

(I) None of the policies listed above are subject to reporting or retrospective rating provisions. All policies subject to audit, minimum or fully earned premium provisions are indicated below:

Policy No and Prefix No: \_\_\_\_\_

(J) Except as indicated above, all Scheduled Policies of Insurance can be cancelled by Borrower or Lender on 10 days notice and the unearned premiums will be computed pro rata or on the standard short rate table.

(K) If any Scheduled Policies of Insurance are subject to audit, Producer and Borrower have made good faith determination that the deposit, provisional or initial premiums are not less than the anticipated premiums to be earned for the full term of the policy(ies).

(L) Upon cancellation of any of the Scheduled Policies of Insurance, Producer shall remit to Lender the full amount of the unearned premium, including unearned commission, as well as any other payments or credits received by Producer, up to the unpaid balance due under this Agreement, within 15 days of receipt from the insuring company.

**DOCUMENTARY STAMPS REQUIRED BY LAW IF ANY ARE AFFIXED TO MONTHLY JOURNAL AND CANCELLED.**

cm



State: TN

# SCHEDULED POLICIES OF INSURANCE

BEP AMERICA INC RESTAURANT ACQUISITION I LLC  
313 E MAIN ST STE 2  
HENDERSONVILLE, TN 37075

STEPHENS INS LLC/LITTLE ROCK  
111 CENTER ST STE 1410  
LITTLE ROCK, AR 72201  
(501) 377-2300

V8(0)NI1.79P-1.24

17346

\*\*\*D488700\*\*\*

EFF DATE EXP DATE	COMPANY / BROKER	CITY	ST	CO. #	TYPE MEP	POLICY NO.	TOTAL PREMIUM
4/30/2015	CO: LIBERTY MUTUAL INS	NEW YORK	NY	85228	UMBR	TH7Z9144	32,909.00
4/30/2016	MGA:				0.00 %	1299065	
4/30/2015	CO: LIBERTY MUTUAL FIRE INS	IRVING	TX	87050	PROP	YU2Z9144	154,158.00
4/30/2016	MGA:				0.00 %	1299054	
4/30/2015	CO: HISCOX INSURANCE COMPANY L	TALLAHASSEE	FL	87187	PLIA	UVA14185	39,932.00
4/30/2016	MGA: STEPHENS INS LLC	LITTLE ROCK	AR	67425	0.00 %	6415	
4/30/2015	CO: AGENCY CONSULTING FEES	TALLAHASSEE	FL	83698	FEES		54,778.82
4/30/2016	MGA:				0.00 %		

Created By: UFDK30

Auth Code:

## ADDITIONAL REPRESENTATIONS & WARRANTIES OF PRODUCER

(F) All information provided above is complete and correct in all respects and the policies listed above are or will be in force on the stated Effective Date and delivered by Producer to the Borrower, except for assigned risk or residual market policies.

(G) If any information listed above is or becomes incomplete or inaccurate, Producer shall promptly provide correct information to Lender.

(H) The Producer is an authorized policy issuing agent of the companies issuing the policies listed above or is the authorized agent of the MGA or broker placing the coverage directly with the insuring company, **except those policies indicated with an "X"**.

(I) None of the policies listed above are subject to reporting or retrospective rating provisions. All policies subject to audit, minimum or fully earned premium provisions are indicated below:

Policy No and Prefix No: \_\_\_\_\_

(J) Except as indicated above, all Scheduled Policies of Insurance can be cancelled by Borrower or Lender on 10 days notice and the unearned premiums will be computed pro rata or on the standard short rate table.

(K) If any Scheduled Policies of Insurance are subject to audit, Producer and Borrower have made good faith determination that the deposit, provisional or initial premiums are not less than the anticipated premiums to be earned for the full term of the policy(ies).

(L) Upon cancellation of any of the Scheduled Policies of Insurance, Producer shall remit to Lender the full amount of the unearned premium, including unearned commission, as well as any other payments or credits received by Producer, up to the unpaid balance due under this Agreement, within 15 days of receipt from the insuring company.

DOCUMENTARY STAMPS REQUIRED BY LAW IF ANY ARE AFFIXED TO MONTHLY JOURNAL AND CANCELLED.