

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

Smallhold, Inc.,¹

Debtor.

Chapter 11

Case No. 24-10267 (CTG)

Obj. Deadline: March 12, 2024 at 4:00 p.m. (ET)

Hearing Date: March 19, 2024 at 3:30 p.m. (ET)

**DEBTOR'S FIRST OMNIBUS MOTION FOR ENTRY OF AN ORDER (I)
AUTHORIZING THE REJECTION OF (A) AN UNEXPIRED LEASE AND (B)
CERTAIN EXECUTORY CONTRACTS, EACH EFFECTIVE
AS OF THE REJECTION DATE, AND (II) GRANTING RELATED RELIEF**

**THIS MOTION SEEKS TO REJECT AN UNEXPIRED LEASE AND CERTAIN
EXECUTORY CONTRACTS. PARTIES RECEIVING THIS MOTION SHOULD
LOCATE THEIR NAMES AND THE APPLICABLE UNEXPIRED LEASE OR
EXECUTORY CONTRACT IN THE SCHEDULES ATTACHED AS SCHEDULE 1
AND SCHEDULE 2, RESPECTIVELY, TO EXHIBIT A OF THIS MOTION.**

The above-captioned debtor and debtor in possession (the “Debtor”), by and through its undersigned proposed counsel, hereby moves this Court (the “Motion”) for entry of an order pursuant to sections 105(a), 365(a), and 554(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), rules 6004, 6006, and 6007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (“Local Rules”), substantially in the form attached hereto as **Exhibit A**: (i) authorizing the rejection of (a) an unexpired lease, including any guaranties thereof and any amendments, modifications, or subleases thereto for nonresidential real property (the “Lease”) located at the premises set forth on Schedule 1 to **Exhibit A** attached hereto (the “Premises”), effective as of the

¹ The last four digits of the Debtor’s federal tax identification number are 8880. The Debtor’s mailing is 285 Nostrand Avenue #1066, Brooklyn, NY 11216.

February 29, 2024 (the “Rejection Date”) and (b) certain executory contracts, including any guaranties thereof and any amendments or modifications thereto (each, a “Contract,” and collectively, the “Contracts”) set forth on Schedule 2 to **Exhibit A** attached hereto, each effective as of the Rejection Date; and (ii) granting related relief. In support of this Motion, the Debtor incorporates by reference the *Declaration of James Dunn in Support of First Day Relief* (the “First Day Declaration”)² and respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over the Motion 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 February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and the Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are sections 105(a), 365, and 554(a) of the Bankruptcy Code, Bankruptcy Rules 6004, 6007, and 6006, and Local Rule 9013-1.

3. Pursuant to Local Rule 9013-1(f), the Debtor consents to the entry of a final order by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

BACKGROUND

4. On February 18, 2024 (the “Petition Date”), the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code as a debtor defined in Bankruptcy Code

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

section 1182(1) and the Debtor elected to proceed under Subchapter V of chapter 11 of the Bankruptcy Code pursuant to the Small Business Debtor Reorganization Act, as amended.

5. On February 20, 2024, the United States Trustee appointed Jami Nimeroff of Brown McGarry Nimeroff LLC to serve as the Subchapter V trustee (the “Subchapter V Trustee”) in this case pursuant to Bankruptcy Code section 1183(a). No other trustee, examiner, or official committee has been appointed in this case. The Debtor is operating its businesses as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

6. Additional detail regarding the Debtor, its business, the events leading to commencement of this case, and the facts and circumstances supporting the relief requested herein is set forth in the First Day Declaration and is incorporated herein by reference.

LEASE AND CONTRACTS TO BE REJECTED

7. The Debtor commenced this chapter 11 case to reorganize its capital structure and position itself for future success.

8. The Lease to be rejected provides no benefit to the Debtor’s estate or the chapter 11 case. Prior to the Petition Date, on January 31, 2024, the Debtor had vacated and ceased all operations on the Premises for the Lease sought to be rejected by this motion. Absent rejection, the Debtor would be obligated to pay rent under the Lease even though it will have ceased operations at such Premises. Moreover, in addition to its obligations to pay rent under the Lease, the Debtor would be obligated to pay certain real property taxes, utilities, insurance, and other related charges associated with the Lease.

9. Further, the Debtor has analyzed certain of its executory contracts and determined in its business judgment that the Contracts are unnecessary and burdensome to the Debtor’s estate.

10. As the Debtor begins the process of analyzing its executory contracts and unexpired leases, it has determined, in its business judgment and in consultation with its advisors, that the Lease and the Contracts are unnecessary and burdensome to the Debtor's estate and that the costs incurred under the Lease and the Contracts constitute an unnecessary drain on the Debtor's already limited resources. The transactional costs and post-petition carrying costs associated with marketing the Lease and the Contracts exceed any potential benefit that may be realized from potential assignments or subleases. Accordingly, it seeks to reject the Lease and the Contracts *nunc pro tunc* to the Rejection Date so as to avoid incurring any administrative claims associated therewith.

RELIEF REQUESTED

11. By this Motion, the Debtor respectfully requests the entry of an order (the "Proposed Order"), substantially in the form attached hereto as **Exhibit A**: (i) authorizing the rejection of (a) the Lease set forth on Schedule 1 to **Exhibit A** attached hereto and (b) certain Contracts set forth on Schedule 2 to **Exhibit A**, each effective as of the Rejection Date; and (ii) granting related relief.

BASIS FOR RELIEF

I. Rejection of the Lease and Contracts effective as of the Rejection Date is appropriate and provides the Debtor with significant cost savings.

12. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, "subject to the court's approval, may . . . reject any . . . executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). The decision to assume or reject an executory contract or unexpired lease is a matter within the "business judgment" of the debtor. *See Nat'l Labor Relations Bd. v. Bildisco & Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982) ("The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the

‘business judgment’ test.”) (citation omitted); *see also Glenstone Lodge, Inc. v. Buckhead Am. Corp. (In re Buckhead Am. Corp.)*, 180 B.R. 83, 88 (Bankr. D. Del. 1995). Application of the business judgment standard requires a court to approve a debtor’s business decision unless the decision is the product of bad faith, whim, or caprice. *See Lubrizol Enters., Inc. v Richmond Metal Finishes*, 756 F.2d 1043, 1047 (4th Cir. 1985). Further, “[t]his provision allows a trustee to relieve the bankruptcy estate of burdensome agreements which have not been completely performed.” *Stewart Title Guar. Co. v. Old Republic Nat’l Title Ins. Co.*, 83 F.3d 735, 741 (5th Cir. 1996) (citation omitted).

13. Rejection of an unexpired lease is appropriate where such rejection would benefit the estate. *See Sharon Steel Corp. v. Nan Fuel Gas Distrib. Corp. (In re Sharon Steel Corp.)*, 872 F.2d 36, 39–40 (3d Cir. 1989). Upon finding that a debtor has exercised its sound business judgment in determining that rejection of certain contracts or leases is in the best interests of its creditors and all parties in interest, a court should approve the rejection under section 365(a). *See In re Federal Mogul Global, Inc.*, 293 B.R. 124, 126 (D. Del. 2003); *In re Bradlees Stores, Inc.*, 194 B.R. 555, 558 n.1 (Bankr. S.D.N.Y. 1996), *appeal dismissed*, 210 B.R. 506 (S.D.N.Y. 1997); *In re Summit Land Co.*, 13 B.R. 310, 315 (Bankr. D. Utah 1981) (holding that absent extraordinary circumstances, court approval of a debtors’ decision to assume or reject an executory contract “should be granted as a matter of course”).

14. The Lease and the Contracts are not a source of potential value for the Debtor’s estate or stakeholders. The Debtor’s obligations to pay, for example, postpetition rent, real estate taxes, utilities, insurance, and other related charges for the Premises eliminates any potential value of the Lease to the Debtor’s estate—including any potential value from an assignment or sublease. Further, the Contracts provide services the Debtor no longer needs or

utilizes, resulting in a waste of the Debtor's resources. Accordingly, the Debtor has determined that the Lease and the Contracts constitute unnecessary drains on the Debtor's resources and, therefore, rejection of the Lease and the Contracts reflects the Debtor's exercise of sound business judgment.

II. This Court should deem the Lease and the Contracts rejected as of the Rejection Date.

15. Section 365 of the Bankruptcy Code does not restrict a bankruptcy court from applying rejection retroactively. *See In re Jamesway Corp.*, 179 B.R. 33, 37 (S.D.N.Y. 1995) (stating that section 365 does not include "restrictions as to the manner in which the court can approve rejection"); *see also In re CCI Wireless, LLC*, 297 B.R. 133, 138 (D. Colo. 2003) (noting that section 365 "does not prohibit the bankruptcy court from allowing the rejection . . . to apply retroactively"). Courts have held that a bankruptcy court may, in its discretion, authorize rejection retroactively to a date prior to entry of an order authorizing such rejection where the balance of equities favors such relief. *See In re Thinking Machs. Corp.*, 67 F.3d 1021, 1028–29 (1st Cir. 1995) (stating "rejection under section 365(a) does not take effect until judicial approval is secured, but the approving court has the equitable power, in suitable cases, to order a rejection to operate retroactively"); *In re Chi-Chi's, Inc.*, 305 B.R. 396, 399 (Bankr. D. Del. 2004) (stating "the court's power to grant retroactive relief is derived from the bankruptcy court's equitable powers so long as it promotes the purposes of § 365(a)"); *CCI Wireless*, 297 B.R. at 140 (holding that a "court has authority under section 365(d)(3) to set the effective date of rejection at least as early as the filing date of the motion to reject"); *BP Energy Co. v. Bethlehem Steel Corp.*, 2002 WL 31548723, at *3 (S.D.N.Y. Nov. 15, 2002) ("We cannot conclude . . . that a bankruptcy court's assignment of a retroactive rejection date falls outside of its authority when the balance of the equities favors this solution."); *see also In re At Home Corp.*, 392 F.3d 1064, 1065–66 (9th Cir. 2004) (holding "that a bankruptcy court may approve retroactively the rejection of an unexpired nonresidential lease").

16. In *In re Namco Cybertainment, Inc.*, the Court stated that retroactive rejection of an unexpired lease was permissible, provided: (a) the premises (and the keys thereto) were surrendered with an unequivocal statement of abandonment to the landlord; (b) the motion was served on the landlord; (c) the official committee consented to the requested relief; and (d) the debtor waived its right to withdraw the motion. No. 98-173 (PJW) (Bankr. D. Del. Feb. 6, 1998); *see also TW, Inc. v. Angelaastro (In re TW, Inc.)*, No. 03-10785, 2004 WL 115521, at *2 (D. Del. Jan. 14, 2004) (upholding bankruptcy court ruling denying rejection of leases *nunc pro tunc* to the petition date when the debtor had not surrendered possession prior to the petition date).

17. Here, the balance of equities favors rejection of the Lease and the Contracts effective as of the Rejection Date. Without such relief as to the Lease and the Contracts, the Debtor will potentially incur unnecessary administrative expenses related to agreements that provide no benefit to the Debtor's estate. *See* 11 U.S.C. § 365(d)(3). Further, the landlord to the Premises and the counterparties to the Contracts will not be unduly prejudiced if the rejection is deemed effective as of the Rejection Date. Possession of the Premises was delivered to the landlord on January 31, 2024 with an unequivocal and irrevocable statement of surrender and abandonment of the Premises to the landlord. Contemporaneously with the filing of this Motion, the Debtor will cause notice of this Motion to be served on the landlord of the Premises and the counterparties to the Contracts, thereby allowing each party sufficient opportunity to respond accordingly.

18. Courts in this jurisdiction have approved relief similar to that requested herein. *See, e.g., In re Lunya Company*, No. 23-10783 (BLS) (Bankr. D. Del. Aug. 8, 2023) (authorizing rejection of unexpired leases and executory contract *nunc pro tunc* to the date of filing the rejection motion); *In re PES Holdings, LLC*, No. 19-11626 (KG) (Bankr. D. Del. Sept. 19, 2019) (authorizing rejection of unexpired leases and executory contract *nunc pro tunc* to the

specific dates); *In re Charming Charlie Holdings, Inc.*, No. 17-12906 (CSS) (Bankr. D. Del. Jan. 10, 2018) (authorizing rejection of unexpired leases *nunc pro tunc* to specified date); *In re Samson Resources Corporation*, No. 15-11934) (CSS) Bankr. D. Del. Sept. 2, 2016) (same); *In re Dex Media, Inc.* No. 16-11200 (KG) (Bankr. D. Del. June 8, 2016) (authorizing rejection of unexpired leases and executory contracts *nunc pro tunc* to petition date).

19. Accordingly, the Debtor respectfully submits that the Court should deem the Lease and the Contracts identified on Schedule 1 and Schedule 2, respectively, to **Exhibit A** attached hereto rejected, effective as of the Rejection Date.

WAIVER OR BANKRUPTCY RULE 6004(H)

20. Given the nature of the relief requested herein, the Debtor respectfully requests a waiver of (i) the notice requirements under Bankruptcy Rule 6004(a) and (ii) the 14-day stay under Bankruptcy Rule 6004(h), to the extent that either rule is applicable.

DEBTOR'S RESERVATION OF RIGHTS

21. Nothing contained in this Motion or any actions taken by the Debtor pursuant to relief granted in the Proposed Order is intended or should be construed as: (a) an admission as to the validity of any particular claim against the Debtor; (b) a waiver of any of the Debtor's rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtor's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtor that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Motion are valid, and the Debtor expressly reserves its rights to contest the extent, validity, or perfection or seek

avoidance of all such liens. If the 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 as to the validity of any particular claim or a waiver of the Debtor's rights to subsequently dispute such claim.

NOTICE

22. Notice of this Motion will be provided to: (i) the Office of the United States Trustee; (ii) the Subchapter V Trustee; (iii) the Debtor's twenty (20) largest unsecured creditors; (iv) the lessor of the Premises and the Contract counterparties listed on Schedule 1 and Schedule 2, respectively, to **Exhibit A**; and (v) all parties requesting notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is necessary.

NO PRIOR REQUEST

23. The Debtor has not previously sought the relief requested herein from the Court or any other court.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court (a) enter the Proposed Order substantially in the form annexed hereto as **Exhibit A** granting the relief requested in this Motion and (b) granting such other and further relief as may be just and proper.

Dated: February 29, 2024
Wilmington, Delaware

**PASHMAN STEIN WALDER
HAYDEN, P.C.**

/s/ Joseph C. Barsalona II
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-and-

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*Proposed Counsel to the Debtor and
Debtor in Possession*

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

In re

Smallhold, Inc.,¹

Debtor.

Chapter 11

Case No. 24-10267 (CTG)

Obj. Deadline: March 12, 2024 at 4:00 p.m. (ET)

Hearing Date: March 19, 2024 at 3:30 p.m. (ET)

**NOTICE OF THE DEBTOR'S FIRST OMNIBUS MOTION
FOR ENTRY OF AN ORDER (I) AUTHORIZING THE REJECTION OF (A) AN
UNEXPIRED LEASE AND (B) CERTAIN EXECUTORY CONTRACTS, EACH
EFFECTIVE AS OF THE REJECTION DATE, AND (II) GRANTING RELATED
RELIEF**

**THIS MOTION SEEKS TO REJECT AN UNEXPIRED LEASE AND CERTAIN
EXECUTORY CONTRACTS. PARTIES RECEIVING THIS MOTION SHOULD
LOCATE THEIR NAMES AND THE APPLICABLE UNEXPIRED LEASE OR
EXECUTORY CONTRACT IN THE SCHEDULES ATTACHED AS SCHEDULE 1
AND SCHEDULE 2, RESPECTIVELY, TO EXHIBIT A OF THIS MOTION.**

PLEASE TAKE NOTICE that the above-captioned debtor and debtor in possession (the “Debtor”) filed the attached *Debtor’s First Omnibus Motion for Entry of an Order (I) Authorizing the Rejection of (A) an Unexpired Lease and (B) Certain Executory Contracts, Each Effective as of the Rejection Date, and (II) Granting Related Relief* (the “Motion”).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the final approval of the Motion must (a) be in writing, (b) be filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **March 12, 2024 at 4:00 p.m. (ET)** (the “Objection Deadline”), and (c) served as to be received on or before the Objection Deadline upon (a) the Debtor, (b) proposed counsel to the Debtor, Pashman Stein Walder Hayden, P.C., 1007 North Orange Street, 4th Floor, Suite 183, Wilmington, Delaware, 19899-1347, Attn: Joseph C. Barsalona II (jbarsalona@pashmanstein.com), Amy M. Oden (aoden@pashmanstein.com) and Edward A. Cho-O’Leary (echo-oleary@pashmanstein.com), (c) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware, 19801, Attn: Joseph Cudia (Joseph.Cudia@usdoj.gov), and (d) the Subchapter V Trustee, Brown McGarry Nimeroff LLC, 919 N. Market Street, Suite 420, Wilmington, Delaware, 19801, Attn: Jami Nimeroff (jnimeroff@bmnlawyers.com).

¹ The last four digits of the Debtor’s federal tax identification number are 8880. The Debtor’s mailing is 285 Nostrand Avenue #1066, Brooklyn, NY 11216.

PLEASE TAKE FURTHER NOTICE that only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON MARCH 19, 2024 AT 3:30 P.M. (ET) BEFORE THE HONORABLE CRAIG T. GOLDBLATT, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: February 29, 2024
Wilmington, Delaware

**PASHMAN STEIN WALDER
HAYDEN, P.C.**

/s/ Joseph C. Barsalona II

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*Proposed Counsel to the Debtor and
Debtor in Possession*

Exhibit A

Proposed Order

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

In re

Smallhold, Inc.,¹

Debtor.

Chapter 11

Case No. 24-10267 (CTG)

Re: D.I. ____

**ORDER (I) AUTHORIZING THE REJECTION OF (A) AN UNEXPIRED
LEASE AND (B) CERTAIN EXECUTORY CONTRACTS, EACH EFFECTIVE
AS OF THE REJECTION DATE, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtor and debtor in possession (the “Debtor”) for entry of an order (this “Order”), pursuant to sections 105(a), 365(a), and 554(a) of the Bankruptcy Code, Bankruptcy Rules 6004, 6006, and 6007, and Local Rule 9013-1: (i) authorizing the rejection of the Lease for nonresidential real property located at the premises set forth on **Schedule 1** attached hereto and (b) the Contracts set forth on **Schedule 2**, each effective as of February 29, 2024 (the “Rejection Date”); and (iii) granting related relief, all as more fully described in the Motion; and upon consideration of the First Day Declaration; and this Court having found that it has jurisdiction to consider the Motion 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; and this Court having found that the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and that the Debtor consents to entry of a final order under Article III of the United States Constitution; and this Court having found that venue of this chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§

¹ The last four digits of the Debtor’s federal tax identification number are 8880. The Debtor’s mailing is 285 Nostrand Avenue #1066, Brooklyn, NY 11216.

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

1408 and 1409; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and this Court having reviewed the Motion and having the opportunity for a hearing held before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation thereon and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Each of the Lease and the Contracts set forth on Schedule 1 and Schedule 2, respectively, attached hereto is rejected effective as of the Rejection Date.
3. Any claims arising out of the rejection of the Lease and the Contracts must be filed on or before the deadline established by the Court for filing proofs of claims in this case for rejection damages. The Debtor reserves all rights to contest any rejection damages claim and to contest the characterization of each Lease or Contract as executory. If the Debtor has deposited monies with a counterparty to a Lease or Contract as a security deposit or other arrangement, such counterparty may not setoff or recoup or otherwise use such deposit without the prior authority of the Court.
4. The Debtor does not waive any claims that they may have against the counterparty to any Lease or the Contract, whether or not such claims are related to such Lease or Contract.
5. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity, priority, or amount

of any particular claim against the Debtor entity; (b) a waiver of the Debtor's or any other party-in-interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order of the Motion; (e) a request or authorization to assume any agreement, contract, lease, or sublease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtor's or any other party-in-interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtor or any other party-in-interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Order are valid and the Debtor and all other parties-in-interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtor's or any other party-in-interest's rights to subsequently dispute such claim.

6. Nothing in the Motion or this Order shall be deemed or construed as an approval of an assumption of any contract pursuant to section 365 of the Bankruptcy Code.

7. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

8. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

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

10. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions

of this Order shall be immediately effective and enforceable upon its entry.

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

Schedule 1

Rejected Lease

Lease Counterparty	Counterparty Notice Address	Title and Date of Lease¹
ACP BK I LLC	c/o Acumen Capital Partners, LLC 630 Flushing Avenue Mailbox #100 Brooklyn, NY 11206	Lease Agreement Lease dated March 5, 2022

¹ References to Lease described herein include all amendments, modifications, supplements, exhibits, and any other operative documents related to such Lease.

Schedule 2

Rejected Contracts

Contract Counterparty	Counterparty Notice Address	Title and Date of Contract¹
Cintas Corporation No. 2	CINTAS CORPORATION 6800 Cintas Blvd., P. O. Box 625737, Cincinnati, OH 45262-5737 Attention: Sr. Director Sales & Operations – Strategic Markets <i>with a copy to</i> CINTAS CORPORATION 6800 Cintas Blvd., P. O. Box 625737, Cincinnati, OH 45262-5737 Attention: Legal Department	National Rental Agreement Contract dated March 23, 2022
Cintas Corporation No. 2	CINTAS CORPORATION 6800 Cintas Blvd., P. O. Box 625737, Cincinnati, OH 45262-5737 Attention: Sr. Director Sales & Operations – Strategic Markets <i>with a copy to</i> CINTAS CORPORATION 6800 Cintas Blvd., P. O. Box 625737, Cincinnati, OH 45262-5737 Attention: Legal Department	Customer Agreement Addendum Contract dated June 8, 2023
Veryable, Inc.	Veryable, Inc. 2019 N. Lamar St., Suite 250 Dallas, TX 75202	Veryable Terms of Service Contract dated May 31, 2023
Mobile Health Medical Services, P.C.	Mobile Health 229 W. 36th St, 9FL New York, NY 10018 FAX: 646-224-1150 ATTN: James Anderson Chief Sales Officer	Agreement for Services Contract dated September 9, 2022
Kin Circuits, Inc.	Kin Circuits, Inc. 691 Park Place,	Retainer Agreement

¹ References to the Contract described herein include all amendments, modifications, supplements, exhibits, and any other operative documents related to such Contract.

	Brooklyn, NY 11216	Contract dated December 13, 2019
Propeller Industries, LLC	Propeller Industries, LLC 110 William Street, Suite 2200, New York, NY 10038	Service Agreement Contract dated February 13, 2023
Wasser Technologies, Inc.	Wasser Technologies, Inc. 14080 Nacogdoches Rd #71 San Antonio, TX 78247	Boiler Water Treatment Proposal – Smallhold Contract dated July 7, 2023
HUB Truck Rental Corp.	HUB Truck Rental Corp. 94 Gazza Boulevard, Farmingdale, NY 11735	Agreement Contract dated October 20, 2023
Gander, Inc.	Gander, Inc. 124 9th St, Brooklyn, NY 11215	Statement of Work #2 Master Services Agreement Contract dated October 04, 2023