

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

In re:	§	Chapter 11
	§	
BRIGGS & STRATTON	§	Case No. 20-43597-399
CORPORATION, <i>et al.</i> ,	§	
	§	(Jointly Administered)
	§	
Debtors.	§	

JOINT STIPULATION AND ORDER BY AND AMONG BRIGGS & STRATTON CORPORATION, BRIGGS & STRATTON LLC, DEERE AND COMPANY, JOHN DEERE POLSKA SP. Z.O.O, AND JOHN DEERE SHARED SERVICES, INC.

WHEREAS, as of July 20, 2020 (the “**Petition Date**”), Deere & Company, John Deere Polska SP. Z.O.O, and John Deere Shared Services, Inc. (collectively, “**Deere**”) and Briggs & Stratton Corporation (“**B&S**” or the “**Debtor**”) were parties to a series of agreements, identified by the following contract ID numbers set forth in the *Notice of Cure Costs and Proposed Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Sale* [Docket No. 514], the *Second Amended Notice of Cure Costs and Proposed Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Sale* [Docket No. 965], and the *Fourth Amended Notice of Cure Costs and Proposed Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Sale* [Docket No. 1162]: 2386, 2652, 2653, 2658, 2659, 2661, 2662, 2663, 2664, 7854, 20299, 26078, 41504 (collectively, the “**Transferred Agreements**”), which Transferred Agreements have been transferred in the above-captioned chapter 11 cases to Briggs & Stratton LLC (“**LLC**”, and collectively with B&S and Deere, the “**Parties**”) who purchased substantially all of the assets of B&S and its affiliated debtors in the above-captioned chapter 11 cases pursuant to that certain *Order (I) Authorizing the Sale of the Assets and Equity Interests to the Purchaser Free and Clear of Liens, Claims, Interests, and*



Encumbrances; (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief dated September 15, 2020 [Docket No. 898] (the “**Sale Order**”) and pursuant to which LLC agreed, among other matters, to manufacture on a production basis various goods, including engines which are placed into Deere equipment or machines and service parts therefor (collectively, the “**Products**”), to be sold under the John Deere brand name.

WHEREAS, Deere timely filed Proofs of Claims Nos. 1696, 1697, and 1698 (each, a “**Deere Claim**”) asserting the known pre-petition warranty claims which existed as of the Petition Date.

WHEREAS, on August 19, 2020, the Debtor filed its *Notice of Cure Costs and Proposed Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Sale* [Docket No. 514] (the “**Notice of Cure Costs**”). Deere filed its *Limited Objection and Reservation of Rights* [Docket No. 858] (the “**Assumption Objection**”) to the Notice of Cure Costs on September 12, 2020, and therein Deere alleged that (i) it had determined there existed known warranty claims covered by the Transferred Agreements in the approximate amount of \$172,247.00 and (ii) it suspected that there may be latent or inchoate indemnity claims which also have not been discovered which inure to its benefit.

WHEREAS, on September 3, 2021, the Debtor filed its *Fourth Notice of Satisfaction of Claims Against Debtor Briggs & Stratton Corporation* [Docket No. 1891] (the “**Notice of Satisfaction of Claims**”), in which B&S alleges that Deere Claim No. 1696 had been satisfied due to the assumption of the Transferred Agreements and assignment of the Transferred Agreements to LLC. On October 4, 2021, Deere filed its *Limited Objection and Reservation of Rights of Deere & Company to Debtors’ Notice of Satisfied Claims* [Docket No. 1920] (“**Satisfaction Objection**”, and collectively with the Assumption Objection, the “**Deere Objections**”). Deere argues in the

Satisfaction Objection that B&S has an obligation to cure or provide adequate assurances of a prompt cure, and that because such a requirement is a prerequisite of assumption, it would necessarily include Deere Claim No. 1696 which is at issue in the Notice of Satisfaction of Claims, and accordingly the issue of claim satisfaction is not ripe until the Bankruptcy Court of the Eastern District of Missouri (the “**Court**”) rules upon the Assumption Objection.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties, by and through their respective undersigned counsel and upon Bankruptcy Court approval it shall hereby be **ORDERED** that:

1. Any and all claims arising pre-petition which inure to the benefit of Deere pursuant to the Transferred Agreements, whether unknown, unmatured, contingent, or unliquidated, shall be paid by LLC in the ordinary course of business if and when said claim becomes known, matured, fixed, noncontingent, or liquidated, subject to any non-bankruptcy rights, defenses, and arguments that LLC may have with respect to said claim.

2. LLC, by operation of the Sale Order, has taken assignment of the Transferred Agreements. Any claims relating to the Transferred Agreements, whether arising pre-petition or post-petition, shall be paid by LLC in the ordinary course of business, subject to any non-bankruptcy rights, defenses, and arguments that LLC may have with respect to said claims.

3. For the avoidance of doubt, this Stipulation fully resolves the Deere Objections and all claims that have been or could have been asserted in the Chapter 11 cases. Upon execution of this Stipulation by the Parties, Deere shall withdraw the Deere Objections, the Deere Claims shall be deemed satisfied and B&S shall be authorized to expunge the Deere Claims from the claims register.

4. This Stipulation has been negotiated at arm's-length between persons knowledgeable in the matters dealt with herein. Each Party represents and warrants that it has

had an opportunity to fully review the provisions of this Stipulation with attorneys of its own choice.

5. The Parties hereby acknowledge that this Stipulation contains all of the agreements by the Parties hereto with reference to the subject matter resolved by this Stipulation. With respect to the Stipulation, no other executory agreements, oral or otherwise, as of the Petition Date, shall be deemed to exist or to bind either of the Parties with respect thereto. No representative or agent of any Party hereto had or has any authority to make any representation or promise not contained in this Stipulation, and each of the Parties hereto acknowledges that it has not executed this Stipulation in reliance upon any such representation or promise. This Stipulation cannot be modified or changed except by a written instrument signed by the Parties.

6. The Parties represent and warrant that they have not assigned or otherwise transferred (voluntarily or by operation of law) any right, title, or interest in any claim that they have, may have, or may have had and which is the subject of this Stipulation.

7. This Stipulation may be executed and delivered in any number of original or facsimile counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

8. This Stipulation shall become effective on the date of full execution of the Stipulation by the Parties, without further order of the Court.

9. The Court shall retain jurisdiction over the Parties hereto and this Stipulation, including, without limitation, for the purposes of interpreting, implementing, and enforcing its terms and conditions.


10. The Parties hereby agree that nothing contained herein shall be deemed a waiver

of any rights, defenses, or arguments by the Parties.

SO ORDERED:

DATED: December 6, 2021
St. Louis, Missouri

cke


Barry S. Schermer
United States Bankruptcy Judge

SO STIPULATED:

Dated: December 6, 2021

DEERE & COMPANY, JOHN DEERE
POLSKA SP. Z.O.O, AND JOHN DEERE
SHARED SERVICES, INC.

/s/ Matthew T. Gensburg

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Shared Services, Inc.*

Dated: December 6, 2021

THE WIND-DOWN ESTATES OF THE
DEBTORS, by Alan Halperin, solely in his
capacity as Plan Administrator under the Plan,
by his counsel,

CARMODY MACDONALD P.C.

/s/ Robert E. Eggmann

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