

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.	§	

**MOTION OF DEBTORS FOR ENTRY OF AN ORDER  
PURSUANT TO SECTION 362 OF THE BANKRUPTCY CODE  
GRANTING RELIEF FROM THE AUTOMATIC STAY TO ALLOW  
GEORGIA DEER FARM, INC. TO REJECT AN EXECUTORY CONTRACT**

Briggs & Stratton Corporation (“**Debtor B&S**”) and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), hereby move this Court for entry of an order pursuant to section 362(d) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 4001(a)(1) and 9013 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), granting Debtors relief from the automatic stay under section 362 of the Bankruptcy Code in order to allow for the rejection of a certain executory contract with Georgia Deer Farm, Inc. (“**GDF**”), in a separate and unrelated chapter 11 bankruptcy proceeding commenced by GDF. In support of this Motion, Debtors respectfully represent as follows:

**Jurisdiction**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

**Background**

2. On July 20, 2020 (the “**Petition Date**”), the Debtors each commenced with



this Court a voluntary case under title 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On August 5, 2020, the United States Trustee (the “**U.S. Trustee**”) appointed an official committee of unsecured creditors (the “**Creditors’ Committee**”) in these chapter 11 cases pursuant to section 1102 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases. The Debtors’ chapter 11 cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of Bankruptcy Rules and Rule 1015(b) of the Local Rules of Bankruptcy Procedure for the Eastern District of Missouri (the “**Local Rules**”). No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

3. On or about March 22, 2008, Briggs & Stratton Power Products Group, LLC (“**B&S Power**”) and GDF, d/b/a Georgia Deer Farm and Ag Center, entered into a certain Dealer Agreement with an effective date as of February 8, 2008 and amended as of May 20, 2011 (as amended, the “**Dealer Agreement**”). A true copy of the Dealer Agreement, as amended, is attached hereto as **Exhibit 1** (“**Ex. 1**”) and incorporated herein by this reference. Pursuant to the terms of the Dealer Agreement, GDF was appointed as a non-exclusive dealer for B&S Power in and around Roopville, Georgia for the promotion and sale of certain product lines. On January 1, 2017, B&S Power merged with and into Debtor B&S.

4. The Dealer Agreement states that:

[u]nless terminated . . . this Agreement shall remain in full force and effect from the Effective Date until October 1<sup>st</sup> of the following year. Thereafter, this Agreement shall automatically renew on a month to month basis, unless either party gives at least sixty (60) days prior written notice of its intent not to renew the Agreement.

[Ex. 1 ¶ 28.] Upon information and belief, the Dealer Agreement has not been terminated. It is

thus an executory contract within the meaning of section 362 of the Bankruptcy Code.

5. On March 13, 2020, GDF filed a voluntary chapter 11 bankruptcy case in the United States Bankruptcy Court for the Northern District of Georgia, Newnan Division, Case No. 20-10563 (the “**GDF Case**”). GDF is currently operating its business and managing its affairs in the GDF Case as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

6. On June 26, 2020, GDF filed a Motion to Reject Executory Contracts, Terminate Franchise Relationships, Return Inventory and Grant Stay Relief to Equipment Finance Lenders (the “**GDF Rejection Motion**”) in the GDF Case. A true copy of the GDF Rejection Motion is attached hereto as **Exhibit 2** (“**Ex. 2**”) and incorporated herein by this reference.

7. In the GDF Rejection Motion, GDF alleges that the continuation of the Dealer Agreement would be burdensome and provide little to no corresponding benefit to the bankruptcy estate of GDF. [Ex. 2 ¶ 12.] GDF further alleges that the Dealer Agreement is an executory contract not necessary for either its continued business operations or the administration of its estate and that maintaining such Agreement would impose unnecessary costs and burdens on the GDF bankruptcy estate. [Ex. 2 ¶ 14.]

8. Upon entry of an order granting the GDF Rejection Motion, GDF seeks termination of the Dealer Agreement with Debtors and the return to Debtors of all equipment and parts currently in the possession of GDF. [Ex. 2 ¶ 13.]

9. The Debtors and GDF have conferred and have agreed to the rejection of the Dealer Agreement on the grounds stated in the GDF Rejection Motion. The Creditors’ Committee and the U.S. Trustee do not oppose to the relief requested in the GDF Rejection Motion with respect to the rejection of the Dealer Agreement.

**Relief Requested**

10. By this Motion, the Debtors seek entry of an order granting relief from the automatic stay, so they might join the entry of an order of the bankruptcy court in the GDF Case consenting to the rejection of an executory contract, in this case, the Dealer Agreement with GDF. Debtors also request a waiver of the 14-day stay of the effectiveness of any stay-relief order under Bankruptcy Rule 4001(a)(3).

11. Relief from the automatic stay may be granted under Section 362(d) of the Bankruptcy Code, which provides:

(d) On request of a party in interest . . . the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest;
- (2) with respect to a stay of an act against property under subsection (a) of this section, if—
  - (A) the debtor does not have an equity in such property; and
  - (B) such property is not necessary to an effective reorganization.

11 U.S.C. § 362(d).

12. The statutory grounds for granting relief from the automatic stay are in the disjunctive. *Production Credit Assoc. of the Midlands v. Wieseler (In re Wieseler)*, 934 F.2d 965, 968 (8th Cir.1991). Accordingly, the bankruptcy court must grant relief if the movant either proves cause or alternatively proves that there is no equity in the property and that it is not necessary for a successful reorganization. *Martens v. Countrywide Home Loans (In re Martens)*, 331 B.R. 395, 398 (8th Cir. BAP 2005).

13. The Debtors and GDF concur that the Dealer Agreement is an executory contract not necessary for the continued business operations of either GDF or Debtors. Further, the Debtors believe the repurchase of the equipment and parts currently in GDF's possession will

benefit Debtors' estate as it sells the product to other local dealers. Accordingly, the Debtors and GDF consent to the modification of the automatic stay under section 362 of the Bankruptcy Code in order to allow for the rejection of the executory contract with GDF and GDF's delivery and support in returning such equipment and parts to the Debtors.

14. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). Debtors anticipate that the bankruptcy court in the GDF Case will grant the relief requested by GDF, including the entry of an order rejecting the Dealer Agreement, for the reasons stated in the GDF Rejection Motion.

15. Additionally, Debtors request a waiver of the 14-day stay of effectiveness of any stay-relief order pursuant to Bankruptcy Rule 4001(a)(3). Bankruptcy Rule 4001(a)(3) provides that "[a]n order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise." FED. R. BANKR. P. 4001(a)(3).

16. The U.S. Trustee and the Creditors' Committee do not oppose to the modification of the automatic stay under section 362 of the Bankruptcy Code in order to allow for the rejection of the executory contract with GDF, as well as the waiver of the 14-day stay.

**No Previous Request**

17. No previous request for the relief sought herein has been made by Debtors to this or any other court.

WHEREFORE, Debtors respectfully request entry of an order granting Debtors relief from the automatic stay under section 362 of the Bankruptcy Code in order to allow for the rejection of an executory contract with GDF in the case pending before the United States

Bankruptcy Court for the Northern District of Georgia, Newnan Division, Case No. 20-10563, and  
such other and further relief as the Court may deem just and appropriate.

Dated: September 2, 2020  
St. Louis, Missouri

Respectfully submitted,

CARMODY MACDONALD P.C.

/s/ Robert E. Eggmann

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*Local Counsel to the Debtors and  
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-and-

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Dated: September 2, 2020  
St. Louis, Missouri

Consented and agreed to by:

THE FALCONE LAW FIRM, P.C.

By: /s/ Ian M Falcone

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*Counsel to Georgia Deer Farm, Inc.*

**EXHIBIT 1**



19727 DA

BRIGGS&STRATTON POWER PRODUCTS GROUP LLC

LEGAL NAME of DEALER Georgia Deer Farm, Inc.

D.B.A. Georgia Deer Farm & Ag Center

☐ Sole Proprietor ☐ Partnership ☐ Limited Liability Co. ☒ Corporation  
☐ Other: \_\_\_\_\_

Dealer's Principal Place of Business:

Street 850 Highway 27 N. P.O. Box \_\_\_\_\_

City: Roopville State GA Zip: 30170

For purposes of this Dealer Agreement:

"Seller" means the entity or entities specifically identified on Exhibit A; and

"Products" means the wholegoods, parts and accessories specifically identified on Exhibit A; and

"Effective Date" of this Agreement shall be February 8, 2008.

In accordance with the terms of this Dealer Agreement ("Agreement"), the dealer identified above ("Dealer") wishes to obtain the rights to sell Seller's Products for the term of this Agreement and any renewals thereof, only from the location identified above as Dealer's principal place of business ("Location").

Now, therefore, in consideration of the above statements, which shall be deemed to be a substantive part of the Agreement, the parties are committing themselves to the mutual promises, covenants, representations and warranties contained in Pages 1 through 12 herein. Both parties agree to the rights and obligations described below, whether designated under "DEALER agrees to" or "SELLER agrees to" or otherwise.

The persons signing below are duly authorized to enter into the legal commitments contained in this Agreement. The person(s) executing this Agreement on behalf of Dealer has the actual authority to do so. The person executing this Agreement on behalf of Seller has the actual authority to do so, even if Seller is more than one legal entity. Dealer acknowledges that only the entities specifically identified as "Seller" on Exhibit A to this Agreement are parties to this Agreement and agrees not to make any claim relating to this Agreement or the Products against any entity who is not specifically identified as "Seller."

**DEALER**

**SELLER**

Georgia Deer Farm, Inc.

Dealer Name

Roger W. Harrud Pres.

By: Signature

Title

Roger W. Harrud 2/08/08

Print Name

Date

By: Signature

Title

Print Name

Date

By: Signature

Title

Print Name

Date

Dave Milner

By: Signature

Dave Milner

Print Name

Vice President-Dealer Sales

Title

3-27-08

Date

DEALER Agrees To:	SELLER Agrees To:
<ol style="list-style-type: none"><li>1. Accept appointment as a nonexclusive dealer of the Products in Dealer's Trading Area (as defined in section 10), from the Location, under the terms and conditions stated in this Agreement. Dealer acknowledges that Dealer does not have authority to bind Seller in any manner. Dealer acknowledges that Seller may, in its sole discretion, decide to sell direct to Government and/or National Accounts without compensation to Dealer. Dealer further acknowledges that Seller may appoint other dealers within any trading area, including Dealers' Trading Area, at any time and in Seller's sole discretion.</li><li>2. Acknowledge that Seller may, in Seller's sole discretion, modify, change or improve any of the Products, or discontinue the manufacture and/or sale to Dealer of any Products. Dealer also agrees that Seller may, in its sole discretion, offer new products to Dealer which, upon receipt of reasonable prior notice, shall be considered by Dealer to be Products under this Agreement.</li><li>3. Purchase and maintain sufficient quantities of each of the specified Products and their respective repair parts to meet the performance standards determined by Seller from time to time to be necessary to serve the needs of the Dealer's Trading Area. Such purchases shall be made in accordance with and subject to Seller's standard terms and conditions of sale, which may be modified by Seller from time to time in its sole discretion. Dealer shall purchase the Products only from Seller and shall not sell Products purchased from third parties without prior written approval from Seller.</li></ol>	<ol style="list-style-type: none"><li>1. Appoint Dealer as a nonexclusive dealer of the Products in Dealer's Trading Area (as defined in section 10), from the Location, and furnish Products for Dealer to resell from the Location. Seller reserves the right, in its sole discretion, to sell direct to Government and/or National Accounts, including those within Dealer's Trading Area, and/or to appoint other dealers within any trading area, including Dealer's Trading Area, in its sole discretion. Seller grants to Dealer only those rights expressly stated herein. Seller reserves all other rights.</li><li>2. In its sole discretion, modify, change, or improve any of the Products, or discontinue the manufacture and/or sale to Dealer of any Products and/or offer new products. Seller will provide reasonable prior notice to Dealer of any material modifications, changes, improvements or discontinuances of Products. Seller will provide reasonable notice concerning any new products that Seller determines, in its sole discretion, may be offered to Dealer as Products.</li><li>3. Determine, in its sole discretion, performance standards and/or purchasing goals for Dealer relating to the marketing and sale of the Products within Dealer's Trading Area, and provide Dealer with copies of Seller's current terms and conditions of sale.</li></ol>

DEALER Agrees To:	SELLER Agrees To:
<p>4. Purchase Products at current published prices and on terms shown in the Current Price List, less discounts shown in the current Marketing Program, plus any taxes applicable to the sale, understanding that Seller, in its sole discretion, reserves the right to change prices, terms or discounts at any time. Dealer's prices to its customers shall be determined by Dealer in its sole discretion. The "Current Price List" means any Seller price list(s) as may be in effect from time to time. "Marketing Program" means any binders describing new Products, Product specifications, ordering requirements, sales terms and conditions, past due account information, part returns, RFA's, wholegoods, parts and accessories programs, and/or any Seller publication(s) as Seller may provide or make available from time to time.</p> <p>5. Pay for Products as and when specified in Seller's invoices, and in any event upon the earliest of: sale by Seller to Dealer, lease by Seller to Dealer, transfer of title from Seller to Dealer, use by Dealer or its customer, or removal of Product or parts of Product from Seller's custody, or initiating action which reduces the security value of the Product to Seller.</p> <p>6. Pay Seller invoices within invoice terms, sign a Uniform Commercial Code Financing Statement in a form acceptable to Seller, and pay interest not to exceed the lesser of 2 and 1/2 percent per month or the maximum rate permitted by law on all past due invoices, plus costs of collection (including attorneys' fees). Dealer assumes all risk of customer nonpayment or partial payment.</p> <p>7. Provide an Annual Financial Statement (Balance Sheet and Operating Statement) within 60 days of the end of Dealer's fiscal year and such other information as Seller may reasonably request to allow Seller to make credit determinations.</p>	<p>4. Sell Products to Dealer at prices and on terms outlined in the Current Price List and Marketing Program as issued periodically. In case of a price increase that applies to a pending order for Products, allow Dealer to cancel pending orders or accept higher price. In case of a price decrease that applies to a pending order for Products, fill pending orders at the lower price. Determine prices, terms, discounts and Marketing Programs for Products in its sole discretion.</p> <p>5. Accept payment for Product and credit Dealer's account within a reasonable time.</p> <p>6. Furnish detailed invoices upon shipment and monthly statements thereafter, provide prompt communication regarding account status upon request, and administer credit policies in an impartial and non-discriminatory manner.</p> <p>7. Treat financial information supplied by Dealer as confidential. However, Seller may provide Dealer's financial information of Dealer to Seller's affiliated companies. Seller may also provide such information to third party retail and wholesale finance companies (who may share it with other lenders), in connection with wholesale and retail financing.</p>

DEALER Agrees To:	SELLER Agrees To:
<p>8. Maintain such facilities as reasonably necessary to properly warehouse, display, promote, sell and service the Products at the Location during reasonable business hours.</p> <p>9. Actively promote the sale of Products through sound merchandising practices, such as participation in Seller-recommended marketing and Co-op Advertising Programs, and utilization of support materials furnished by Seller.</p> <p>10. Limit advertising and marketing efforts to geographic areas which can be readily and effectively serviced by Dealer upon sale of the Products from the Location ("Dealer's Trading Area") and limit advertising and marketing efforts of the Products to its geographic county and its immediate adjoining counties.</p> <p>11. Actively support Seller's marketing efforts to generate sales via the Internet. Such support may include set-up and delivery of the Product by Dealer within Dealer's Trading Area.</p> <p>12. Provide no quotations or prices of the Products, and refrain from making sales of Products through, any E-Commerce-based transmissions such as Web Pages, Websites, or other electronically-based media. Refrain from using any false, misleading or deceptive advertising.</p> <p>13. Comply with all contracts, statutes, laws and regulations of any federal, state, municipal, territorial and local governmental and regulatory authorities applicable to operating Dealer's business and/or the purchase or sale of the Products from the Location.</p>	<p>8. Provide visits by Seller representatives, if seller determines such visits are necessary, to consider whether Dealer's facilities are consistent with Seller's standards for the quality and maintenance of the Products.</p> <p>9. Provide advertising, promotion and merchandising programs and support materials, as Seller in its sole discretion deems appropriate.</p> <p>10. Assist Dealer in developing an advertising plan that is consistent with Dealer's Location, Dealer's Trading Area and Dealer's ability to service the Products.</p> <p>11. Promote sales of its Products via the Internet or by other means as Seller, in its sole discretion, deems appropriate.</p> <p>12. Determine, in Seller's sole discretion, whether Dealer is in compliance with this Agreement and whether the Agreement is subject to termination if Dealer makes sales of Products, either directly or indirectly, to any persons, corporations or other entities (a) from sites other than Dealer's authorized Location, or (b) by E-Commerce-based transmissions such as Web Pages, Websites, or other electronically-based media, or (c) by means other than as specified in this Agreement or authorized in writing by Seller.</p> <p>13. Review information from Dealer as to Dealer's compliance with applicable statutes, laws and regulations that are essential to Dealers' maintenance of the operating viability of the Location.</p>

DEALER Agrees To:	SELLER Agrees To:
<p>14. Actively support the efforts of Seller to sell Products to National Accounts and Government Agencies, including set-up and delivery of the Product within Dealer's Trading Area.</p> <p>15. Perform or arrange for, at its expense, proper predelivery service to maintain the quality and integrity of the Products when sold to customers. Refrain from selling or distributing any of the Products which to Dealer's knowledge are not of proper quality, have not been adequately assembled, tested, prepped or that are still crated and/or boxed in a shipping crate or carton.</p> <p>16. Instruct each customer (or persons designated by them) in the safe operation and care of the Products.</p> <p>17. Acknowledge that Seller's Limited Warranty is the sole and exclusive warranty for the Products. Dealer further agrees: to furnish to Seller the required Warranty Registration within five (5) days after delivery of Products by Seller; and to perform Warranty work, regardless of where the Product was purchased, within the guidelines of Seller policy, using only Seller repair parts, submitting necessary forms to Seller within thirty (30) days of the date of repair. Dealer understands that failure to use Seller parts excludes the Products from warranty certification and liability. Dealer further agrees that it shall not offer on behalf of Seller any warranty other than the Limited Warranty published by Seller and as may be amended by Seller from time to time in Seller's sole discretion.</p> <p>18. Maintain current technical, sales, and service information and literature for the Products.</p>	<p>14. Compensate Dealer for its efforts as requested by Seller in connection with Seller's sales to National Accounts and Governmental Agencies via specific programming and a dedicated factory representative, or by any other means Seller, in its sole discretion, deems reasonable.</p> <p>15. Furnish written instructions and forms which cover set-up and predelivery service of the Products.</p> <p>16. Provide manuals to Dealer which include operational and safety procedures for the Products.</p> <p>17. Supply appropriate Product registration forms necessary for Dealer to provide prompt service and obtain justified warranty reimbursement in a reasonably timely manner. Furnish a Limited Warranty for the Products in the Warranty Procedure and Flat Rate Manual, Flat Rate Schedule, or similar document as Seller may provide or make available from time to time, which shall serve as the sole basis for any warranty recognized by Seller. Reimburse Dealer for warranty work performed by Dealer in accordance with the terms of the applicable Warranty Procedures and Flat Rate Manual or similar document.</p> <p>18. Provide such technical and service information and literature as Seller deems appropriate to assist the Dealer in the sale of the Products.</p>

DEALER Agrees To:	SELLER Agrees To:
<p>19. Permit authorized Seller representatives access to the Location to ascertain compliance with this Agreement, inspect Dealer's inventory, books, and accounts and submit such periodic reports as requested by Seller.</p> <p>20. Reimburse Seller for all expenses which result from cancellation, change, diversion, or reconsignment of purchase orders or shipments with ten (10) days of notification by Seller.</p> <p>21. Use the Trade Names or Trademarks of Seller that correspond to the Products only as specifically permitted in advance by Seller in writing, and in accordance with Section 34 of this Agreement.</p>	<p>19. Contact Dealer by a Seller employee or representative to review records of inventory and settlement by Dealer.</p> <p>20. Charge only actual expenses for cancellation, change, diversion or reconsignment of purchase orders of shipments, or those which are set forth in the applicable Seller program.</p> <p>21. Furnish written instructions in the use of the Trade Names and/or Trademarks of Seller that correspond to the Products.</p>

#### **ENTIRE AGREEMENT**

22. This Agreement, including any attachments and exhibits, embodies the entire agreement and understanding between the parties concerning the subject matter herein, and there are no agreements, understandings, conditions, warranties or representations, oral or written, express or implied, with reference to the subject matter hereof that are not merged herein and superseded hereby. This Agreement may not be modified, except by an agreement in writing executed by the parties hereto. All programs and documents mentioned in this Agreement (including but not limited to the Limited Warranty, Warranty Procedure and Flat Rate Manual, Current Price Lists, Marketing Programs and sales terms and conditions) may be modified from time to time in Seller's sole discretion. In the event of a conflict between this Agreement and any program or document referred to herein, the terms and conditions of this Agreement shall govern and control.

#### **INDEPENDENT CONTRACTOR STATUS OF DEALER**

23. This Agreement does not establish any association or relationship between Seller and Dealer other than that of an independent dealer who purchases the Products for resale. Dealer is and shall remain an independent contractor and will not be an employee and shall not participate in any employee benefit programs of Seller. Dealer shall not be or be considered an employee, agent, partner, franchisee or legal representative of Seller for any purpose. Except as otherwise required by law, Seller shall not withhold any sums from any payments to be made to Dealer for Social Security or other federal, state, or local tax liabilities contributions, and all withholdings, liabilities and contributions shall be solely the responsibility of the Dealer. Neither Dealer nor any agent or employee of Dealer shall have any authority to act as an agent of Seller nor bind Seller to any obligations with any third parties. Dealer shall be responsible for all of its own expenses and employees. Dealer shall be responsible for any loss or damage caused by Dealer or its employees or agents. Except as otherwise provided herein, and except as may be required by law, Dealer shall not be required to conduct its



business in any particular manner in order to be able to purchase the Products from Seller. Dealer is not required to pay, and shall not pay, to Seller any fee for the right to purchase the Products.

#### **ASSIGNMENT**

24. Any rights and obligations of Dealer accruing hereunder, including appointment as Dealer, are personal and shall not be assigned by Dealer directly or indirectly (as through the transfer of control, for example), either in whole or in part, except with the written consent of Seller. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of Seller and Dealer and their respective successors and assigns.

#### **GOVERNING LAW/JURISDICTION/VENUE**

25. All disputes arising under or related to this Agreement shall be governed by, and the terms of the Agreement shall be construed and interpreted in accordance with, the laws of the State of Wisconsin without regard to conflict of laws principles. Dealer agrees that in the event of any dispute under this Agreement, Seller may require jurisdiction of the courts in the State of Wisconsin, and Dealer agrees to such jurisdiction. Dealer agrees that the venue of any litigation brought by Dealer against Seller shall be in the Federal District Court for the Eastern District of Wisconsin or the state court in Ozaukee County, Wisconsin.

#### **PERFORMANCE STANDARDS**

26. From time to time, Seller shall determine performance standards and/or purchasing goals relating to the marketing and sale of the Products. If Dealer fails to meet the performance standards and/or purchasing goals, Seller may, at its option, terminate this Agreement in accordance with Section 29 below.

#### **SPECIFIC PERFORMANCE/INJUNCTIVE RELIEF**

27. Seller shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation, or attempted or threatened violation, of any covenant, agreement, condition or provision of this Agreement or to a decree compelling performance of any covenant, agreement, condition or provision of this Agreement, or to any other remedy allowed to Seller by law. Seller's right to require strict performance of this Agreement shall not be affected by any previous waiver or course of dealing.

#### **TERM OF AGREEMENT/RENEWAL**

28. Unless terminated pursuant to Section 29 below, this Agreement shall remain in full force and effect from the Effective Date until October 1<sup>st</sup> of the following year. Thereafter, this Agreement shall automatically renew on a month to month basis, unless either party gives at least sixty (60) days prior written notice of its intent not to renew the Agreement. Such nonrenewal may be made by either party, with or without cause. Notwithstanding the foregoing, this Agreement may be terminated by either party in accordance with Section 29 below.

#### **AGREEMENT TERMINATION**

29. This Agreement may be terminated by either party at any time, with or without cause, upon sixty (60) days prior written notice forwarded by certified mail or courier, or personally delivered, to the last known address of the other party. Seller may terminate this Agreement immediately upon written notice for good cause. "Good cause" shall include, but not be limited to, the following circumstances: (a) Dealer becomes insolvent or makes an assignment for the benefit of creditors, or is placed in receivership, reorganization, liquidation or voluntary or involuntary bankruptcy or similar proceeding; or (b) Dealer, or its owners, managers, employees, or agents commit fraud, engage in serious criminal activity or make any misrepresentation about the Products; or (c) Dealer materially breaches any provision of the Agreement, including but not limited to failure to pay any amount owed to Seller when due; or (d) if any change in ownership, control or management of the Dealer occurs, or if Dealer attempts to assign its rights and/or obligations under this Agreement, unless such change or assignment is pre-approved in writing by Seller; or (e) failure by Dealer to meet performance standards or purchasing goals. The termination, nonrenewal or expiration of the Agreement shall not affect

the liability of one party to the other on account of business previously consummated hereunder, and settlement therefor shall be upon the same basis as if this Agreement had not been terminated, subject to Section 30 below. Any transaction made by mutual consent after termination, expiration or nonrenewal shall not be construed as reviving this Agreement. Dealer shall not be entitled to any additional compensation or indemnity of any nature on expiration, nonrenewal or termination of this Agreement for any reason, and Dealer hereby expressly waives any right it may otherwise have therefor.

#### **TERMINATION OBLIGATIONS AND PROCEDURES**

30. A. Upon termination, expiration or nonrenewal of the Agreement, Seller will cancel all outstanding accepted orders except those required by Dealer to meet definite written commitments to customers. When such prior written commitments exist, Dealer will pay in full in advance of shipment.
- B. At its option, Seller may agree to repurchase, without storage, taxes or other charges, freight prepaid to a point designated by Seller, Products purchased by Dealer from Seller as follows:
- (1). All wholegoods and accessories which are new, unused, and listed in the then Current Price List, at the price at which the same were purchased, less a 15% handling/restocking charge.
  - (2). All parts (except parts listed as nonreturnable in the prevailing Master Parts And Accessory Program under the excess parts return policy), purchased as service parts from Seller, which are determined by inspection at the factory to be in new and resalable condition and are listed in the then Current Price List. Parts deemed acceptable by Seller will be credited at the list price, less any applicable discounts or rebates, and less the handling/restocking charge stated in the prevailing Master Parts And Accessory Program.
- C. Dealer shall return or deliver to Seller all printed materials furnished by Seller; and all prospect lists, ownership lists, service history folders, parts history records, and any other material of any kind relating to the sale, operation, or servicing of Products covered by this Agreement, including all copies of excerpted information.
- D. Dealer agrees to remove from its letterhead, advertising, promotional materials, literature, and places of business all reference to Seller and further agrees that Dealer shall not thereafter use the Seller's Trademarks or Trade Names or any similar name or mark, or do any act tending to impair trademarks, trade names, confidential material or Intellectual Property Rights belonging to Seller.

#### **TITLE AND SECURITY INTEREST/DEFAULT**

31. Title to all Products together with the risk of loss and responsibility of carrying good insurance shall pass to Dealer upon delivery at F.O.B. point. To secure all Dealer's present and future indebtedness and obligations to Seller (whether one or more), whether arising hereunder or otherwise, Dealer grants to Briggs & Stratton Power Products Group, LLC., a Delaware corporation, a security interest in the Products, all other inventory now or hereafter acquired from Seller and all other machinery, equipment, repair parts, merchandise, and goods purchased from or financed by Seller and all products and proceeds of such collateral including inventory, equipment, trade-ins, cash, chattel paper, contracts or insurance proceeds, wherever located (the "Collateral"). If the extent to which Seller's security interest in the Collateral is a purchase money security interest depends on the application of a payment to a particular obligation of Dealer, such payment shall first be applied to obligations of Dealer to the applicable Seller which are not secured by a purchase money security interest; provided, however, that Seller shall retain its security interest in all Collateral regardless of the allocation of payments. Dealer agrees to do all acts necessary to perfect and maintain the Seller's security interest and authorizes Seller to file such financing statements as required by Seller to perfect such security interest, and further agrees not to dispose of Products in which Seller has a security interest except to a buyer in the ordinary course of business. Dealer shall be in default hereunder whenever any one or more of the following events of default shall occur:



(1) a default in the prompt payment of any indebtedness to Seller; (2) a default on the part of Dealer in any other covenant, condition, or term of this Agreement; (3) filing by or against Dealer of a bankruptcy or similar petition; or (4) the discontinuance of Dealer's business as a going concern for more than thirty (30) days. Upon such a default, Seller, as applicable, shall have all the rights and remedies of a secured party under the Wisconsin Uniform Commercial Code and hereunder, and the right to declare all indebtedness of Dealer to Seller immediately due and payable without notice to Dealer, and no delay or omission in exercising any right accruing upon any default shall impair any such right, or shall be construed to be a waiver of any such default or any acquiescence therein.

#### **TAX OBLIGATION**

32. Dealer will promptly pay and hold Seller harmless from and against all taxes assessed against or in connection with Products purchased by Dealer.

#### **PARTS RETURN**

33. Seller agrees to accept the return of new, resalable Seller parts and accessories purchased from Seller only under the provisions of the current Master Parts And Accessory Program as in effect from time to time.

#### **TRADEMARKS AND TRADE NAMES**

34. During the term of this Agreement, for so long as Dealer is in compliance with its obligations hereunder, Seller grants Dealer the non-exclusive right to use the trademarks and trade names identified on Exhibit A ("Trademarks and Trade Names") for the purpose of advertising, soliciting sales of and selling Products in accordance with the terms of this Agreement. Seller may revoke this license at any time in its sole discretion. All goodwill resulting from use of the Trademarks and Trade Names shall be only for Seller's benefit. Dealer shall not register or use in any manner, or allow any other party to register or use in any manner, any of the Seller's Trademarks or Trade Names or any mark or name closely resembling them. Dealer acknowledges and agrees that Seller owns all right, title and interest in and to any and all Trademarks and/or Trade names utilized in connection with the Products, including, without limitation, the Trademarks and Trade Names identified on Exhibit A.

Except as otherwise agreed by Seller, Products sold by Dealer shall bear Seller's Trademark and/or Trade Name, and Dealer shall not remove or efface such Trademark and/or Trade Name. Dealer will not sell any of the Products except in connection with such Trademarks and/or Trade Names, and will not repackage the Products in any manner and resell such Products utilizing a different Trademark or Trade Name. Any use of Seller's Trademarks and/or Trade Names in advertisements or promotions must be preapproved in writing by Seller. Dealer agrees not to attempt to alter or modify Seller's Trademarks or Trade Names in any way. Dealer shall take all steps which Seller may from time to time consider to be necessary to perfect or protect Seller's Intellectual Property Rights. Upon expiration or termination of this Agreement for any reason, Dealer shall take such steps and execute such documents as Seller requests to cause Seller to own all Intellectual Property Rights and to terminate any rights Dealer may have to use any Intellectual Property Rights. All of Seller's Intellectual Property Rights, together with all associated goodwill, are and shall remain Seller's sole property. Dealer shall inform Seller promptly of any potential or actual infringement of any of Seller's Intellectual Property Rights and shall provide all assistance and information required by Seller in connection with any such infringement. "Intellectual Property Rights" include, without limitation, any copyright, patent, registered design, unregistered design, logo, trademark, trade dress, trade name or other designation, translation of trade name into another language, and any similar rights or applications for rights in any of the foregoing in any part of the world owned or used by Seller or any of its affiliates.

#### **TRADE SECRETS AND CONFIDENTIAL INFORMATION**

35. Dealer acknowledges that all trade secrets, designs, specifications and other Confidential Information which may be disclosed to it by Seller shall at all times, both during and after expiration or termination of this

Agreement for any reason, remain the exclusive property of Seller and that Dealer shall not acquire any proprietary interest whatsoever therein. "Confidential Information" means knowledge and information, not generally known in the industry, which provides Seller with a competitive advantage relating to its products, production methods, processes, formulations, technology, sales methods, customer lists, customer usage and requirements, and other confidential business information. Except as necessary to perform its duties under this Agreement, Dealer shall not use or disclose any of such Confidential Information and shall maintain it in a secure place. Within fifteen (15) days of the expiration, non-renewal or termination of this Agreement for any reason, Dealer shall surrender to Seller all plans, specifications, literature, samples, documents, other tangible items and all copies thereof relating to trade secrets and other Confidential Information and all of Seller's property. Nothing in this Agreement shall be construed to limit or negate the common or statutory law of torts or trade secrets where it provides Seller with broader protection than that provided herein.

**NO OTHER WARRANTIES.**

36. **SELLER'S LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY WITH RESPECT TO THE PRODUCTS AND IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

**LIMITATION OF LIABILITY**

37. **SELLER'S LIMITED WARRANTY IS THE SOLE WARRANTY FOR THE PRODUCTS SOLD, DISTRIBUTED OR OTHERWISE PROVIDED BY SELLER TO DEALER UNDER THIS AGREEMENT. NEITHER DEALER NOR ANYONE CLAIMING UNDER DEALER SHALL BE ENTITLED TO ANY OTHER REMEDY REGARDLESS OF THE FORM OF CLAIM OR CAUSE OF ACTION, WHETHER BASED IN AGREEMENT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF USE, OR LOSS OF CONTRACTS. SELLER'S AGGREGATE LIABILITY WITH RESPECT TO DEFECTIVE PRODUCTS SHALL BE LIMITED TO THE MONIES PAID BY DEALER TO SELLER FOR THE DEFECTIVE PRODUCTS.** For products or components furnished by Seller, but manufactured by others, the written warranty of the manufacturer, if any, will be assigned to Dealer if assignment is reasonably practicable. However, Seller does not adopt or guarantee or represent that the manufacturer will comply with any of the terms of the warranty of such manufacturer. Seller makes no warranty regarding products or components manufactured by others. Seller will not reimburse Dealer for any expenses incurred by Dealer or any other party in repairing or replacing any defective Products, except for those incurred with Seller's prior written permission. Seller, in its manufacture and sale of Products, assumes no liability as to possible infringement of patents by virtue of the use of such Products in combination with other elements or structures, and Dealer hereby indemnifies and agrees to hold Seller harmless against all damages sustained by Seller, including without limitation reasonable attorneys' fees, resulting from any action or threatened action against Seller related thereto. Any oral or written description of the Products is for the sole purpose of identifying the Products and shall not be construed as an express warranty.

**INDEMNIFICATION**

38. Dealer shall indemnify, defend and hold harmless each Seller, their respective shareholders, directors, officers, agents, successors, affiliates, employees and assigns, from and against all direct or indirect claims, demands, actions, liabilities, judgements, damages, losses, fines, penalties, forfeitures, costs and expenses, including attorneys' fees and court costs, arising, or which in the future may arise, out of the breach of this Agreement by Dealer, and/or any injury to or destruction of property, or injury to or death of persons caused, or alleged to have been caused, in whole or in part, by any intentional, reckless, negligent or other act (or failure to act) of Dealer or Dealer's shareholders, directors, officers, representatives, agents, managers, employees, successors, affiliates or assigns. These obligations shall survive expiration, non-renewal or termination of the Agreement for any reason.

**FORCE MAJEURE**

39. Seller shall not be responsible for any delay in delivery or failure to fill orders or other default or damage where such has been caused by an act of God, war, third-party criminal acts, major disaster, terrorism, insurrection, riot, flood, earthquake, fire, strike, lockout or labor disturbance, delay by carriers, shortage of fuel, power, materials or supplies, operation of statutes, laws, rules or rulings of any court or government, demand for goods exceeding Seller's available supply or any other cause beyond Seller's control. In the event of any delay in delivery, failure to fill orders or other default or damage caused by any of the foregoing, Seller may, at its option and without liability, cancel all or any portion of this Agreement to the extent affected by the event of force majeure and/or extend any date upon which performance is due hereunder.

**DISPUTES**

40. In the event any dispute between the parties with respect to this Agreement leads to litigation, including any failure to pay amounts due, the prevailing party shall be entitled to recover reasonable attorneys' fees and related costs.

**SEVERABILITY**

41. The invalidity or unenforceability of any term or part of this Agreement shall not affect the validity or enforceability of the remainder of this Agreement.

**SURVIVAL**

42. The following provisions of this Agreement shall remain in full force and effect notwithstanding any expiration, termination or nonrenewal of this Agreement: Sections 5 (DEALER), 6 (DEALER), 17 (DEALER), 20, 21 (DEALER), 25, 27, 29, 30, 31, 32, 34, 35, 36, 37, 38, 40 and 42, and any other provisions, the performance or effectiveness of which naturally survives expiration, non-renewal or termination.

**EXHIBIT A**

Entity/Entities

For the purpose of this Agreement,

"Seller" shall mean only the entity or entities which are identified (by checked box) below; and

"Products" shall mean the wholegoods, parts and accessories on Seller's current price list for the product lines identified (by checked box) below.

"Seller" shall not include any entity whose box is not checked, and "Products" shall not include any product line that is not checked.

"Trademarks" and "Tradenames" shall mean the trademarks and tradenames of Seller used by Seller in connection with the Products (identified by checked box below).

☒ Briggs & Stratton Power Products Group, LLC., Wauwatosa, Wisconsin (a Delaware Corporation)

Products:

☒ Ferris

**EXHIBIT 1-A**

19727

**AMENDED/EXHIBIT A**

Entity/Entities

For the purpose of this Agreement,

"Seller" shall mean only the entity or entities which are identified (by checked box) below; and

"Products" shall mean the wholegoods, parts and accessories on Seller's current price list for the product lines identified (by checked box) below.

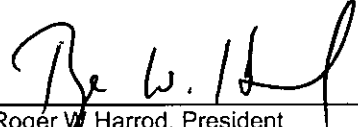
"Seller" shall not include any entity whose box is not checked, and "Products" shall not include any product line that is not checked.

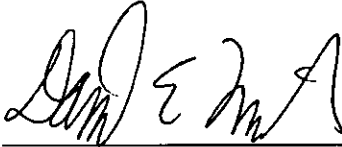
"Trademarks" and "Tradenames" shall mean the trademarks and tradenames of Seller used by Seller in connection with the Products (identified by checked box below).

☒ Briggs & Stratton Power Products Group, LLC., Wauwatosa, Wisconsin (a Delaware Corporation)

Products:

☒ Massey Ferguson  
☒ Ferris

 2/22/2011  
\_\_\_\_\_  
Roger W. Harrod, President  
Georgia Deer Farm, Inc. Date

 5-20-2011  
\_\_\_\_\_  
Dave Milner, Vice President-Dealer Sales  
Briggs & Stratton Power Products Group, LLC. Date

**EXHIBIT 2**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

IN RE:	:	
	:	CHAPTER 11
GEORGIA DEER FARM INC	:	CASE NO. 20-10563-whd
Debtor.	:	

**NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that the following Motion was filed with this Court:

**MOTION TO REJECT EXECUTORY CONTRACTS, TERMINATE FRANCHISE  
RELATIONSHIPS AND RETURN INVENTORY**

NOTICE IS HEREBY GIVEN that any creditor or other party in interest who objects to said Application shall within twenty-one (21) days of the entry of this Notice of Hearing file a written objection that sets forth in detail the reasons why such person opposes such Motion with the Clerk of this Court whose address is Clerk, United States Bankruptcy Court, Lewis R. Morgan Federal Building and US Courthouse, 18 Greenville Street, Ste 215, Newnan, Georgia, and simultaneously shall serve a copy of said objection upon counsel for Debtor in Possession who is Ian M. Falcone, Esq. and whose address is 363 Lawrence Street, Marietta, Georgia 30060.

NOTICE IS HEREBY FURTHER GIVEN that a hearing will be held on the **29<sup>th</sup>** day of **July 2020** at **10:00 a.m.**, in the **2<sup>nd</sup> Floor Courtroom**, Lewis R. Morgan Federal Building, 18 Greenville Street, Newnan, Georgia, 30263 to consider said Motion and any written objections timely filed and served as aforesaid.

*Given the current public health crisis, hearings may be telephonic only. Please check*



the ["Important Information Regarding Court Operations During COVID-19 Outbreak"](#) tab at the top of the GANB Website prior to the hearing for instructions on whether to appear in person or by phone.

Any creditor or other party in interest who files and serves a written objection must appear at the hearing and advocate its objection. Said hearing may be continued to another date or dates or location by announcement made at the aforesaid hearing. Any creditor or party in interest who fails to timely file and serve a written objection or to advocate same at the hearing will be deemed to have waived said objection.

This 25<sup>th</sup> day of June 2020

Submitted by:

/s/ IAN M. FALCONE

Ian M. Falcone

GA BAR NO. 254470

THE FALCONE LAW FIRM, PC  
363 Lawrence Street  
Marietta, GA 30060  
770-426-9359  
[imf@falconefirm.com](mailto:imf@falconefirm.com)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

IN RE:	:	
	:	CHAPTER 11
GEORGIA DEER FARM INC	:	CASE NO. 20-10563-whd
Debtor.	:	

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**MOTION TO REJECT EXECUTORY CONTRACTS,  
TERMINATE FRANCHISE RELATIONSHIPS, RETURN INVENTORY  
AND GRANT STAY RELIEF TO EQUIPMENT FINANCE LENDERS**

COMES NOW, GEORGIA DEER FARM LLC, Debtor in Possession (“Debtor”), by and through its attorney and files this Motion to Reject Executory Contracts, Terminate Franchise Relationships and Return pursuant to 11 § U.S.C 365 (“Motion to Reject”) and O.C.G.A §13-8-22, and respectfully submits as follows:

**Jurisdiction and Venue**

1. The Court has jurisdiction over this case pursuant to 28 USC 1334.
2. This is a core proceeding and the relief requested herein is authorized under section 365 of the Bankruptcy Code.
3. Venue of the Debtor’s chapter 11 case is proper in this district.

**Background- The Chapter 11 Case**

4. The Debtor commenced its Chapter 11 case on March 13, 2020.

5. Debtor is a Georgia corporation and operates a farm equipment business located at 850 N. Highway 27, Roopville, GA 30170 (the “Business”) Debtor’s President, Roger Harrod, operates the business.
6. The Debtor is operating its business and managing its affairs as a debtor-in-possession under 11 USC § § 1107 and 1108.
7. No trustee or examiner has been appointed in the Debtor’s Chapter 11 case.
8. Prior to filing its bankruptcy case, Debtor entered into certain franchise relationships with several equipment dealers (“Dealers”) (collectively referred to as the “Dealer Agreements” or “Executory Contracts”) for the purposes of obtaining credit and reselling the respective product lines, as follows:
  - a. AGCO (attached hereto as Exhibit A)
  - b. RhinoAG/Alamo Sales Company (attached hereto as Exhibit B)
  - c. Mahindra USA (attached hereto as Exhibit C)
  - d. KUHN North America (attached hereto as Exhibit D)
  - e. Spartan Mower (attached hereto as Exhibit E)(financed through TCF Inventory Financing)
  - f. Titan Implement, Hall Manufacturing/Bush-Whacker, Tubeline Manufacturing and Briggs & Stratton (attached hereto as Exhibit F)(financed through Wells Fargo)
  - g. Woods Equipment Company (attached hereto as Exhibit G)
9. Prior to the commencement of this case several of the Dealers alleged that Debtor sold several items of equipment “out of trust.” As a result, several Dealers attempted to terminate their respective Dealer relationship with Debtor.
10. Since the commencement of this case, several Dealers have indicated that they are not interested in continuing a long-term relationship with Debtor.
11. If a Dealer relationship is terminated, Debtor is permitted to return equipment and

inventory to the respective Dealer and receive credit at “100 percent of the actual dealer cost, including freight, of all new, unsold, undamaged, and complete units of equipment which are resalable and 100 percent of the current wholesale price of all new, unused, undamaged repair parts and accessories which are listed in the manufacturer's current parts price list.” (See O.C.G.A. 13-8-22). Further, each Dealer shall be permitted an opportunity to inspect the equipment and inventory Debtor desires to return and shall have the right to object to any specific item if the item does not meet the requirements of O.C.G.A. 13-8-22.

12. Debtor has reviewed each of the above Dealer Agreements that are the subject of this Motion and has determined, given the status of the relationships with the Dealers and the pending Motion to Sell Assets, that in the exercise of its sound business judgment, continuing the Dealer Agreements would be burdensome and would provide little to no corresponding benefit to the Debtor’s estate.
13. As part of the termination of each of the Dealer Agreement, Debtor proposes returning the equipment and parts permitted by contract or applicable state law, including, but not limited to, those items listed on the attached exhibits<sup>1</sup> to the respective Dealers, as follows:
  - a. Equipment and Parts to be returned to AGCO (Exhibit H1 and H2)
  - b. Equipment and Parts to be returned to RhinoAG/Alamo (Exhibit I1 and I2)
  - c. Equipment and Parts to be returned to Mahindra USA (Exhibit J1 and J2)
  - d. Equipment and Parts to be returned to KUHN (Exhibit K1 and K2)
  - e. Equipment and Parts to be returned to Spartan Mower (Exhibit L1 and L2)
  - f. Equipment and Parts to be returned to Titan Implement, Hall Manufacturing/Bush-Whacker, Tubeline Manufacturing and Briggs & Stratton (Exhibit M1 and M2)
  - g. Equipment and Parts to be returned to Woods Equipment (Exhibit N1 and N2)

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<sup>1</sup> Debtor will continue to sell equipment and parts in the ordinary course of business until such time as this Motion is granted. Debtor will pay the respective Dealer for any equipment (whole goods) sold prior to the date of return in accordance with the existing Court orders and said item(s) will be removed from the appropriate return list.

14. The Executory Contracts are not necessary for the Debtor's continuing business operations or the administration of the Debtor's estate, and maintaining the Executory Contracts would impose unnecessary costs and burdens on the Debtor's estate.
15. Terminating the Dealer Agreements and returning the equipment to each of the respective Dealers will benefit the estate.
16. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor."
17. It is in the best interest of the estate and its creditors if the Executory Contracts described herein as rejected.
18. Further, as part of its normal course of business and/or in connection with the Dealer Agreements, Debtor entered into various equipment finance agreements with separate entities to secure financing to purchase equipment and parts. (collectively referred to as "Equipment Finance Lender Agreements").
19. The lending institutions are as follows (collectively referred to as "Equipment Finance Lenders"):
  - a. TCF Inventory Financing (Exhibit O)
  - b. Mahindra Finance USA (Exhibit P)
  - c. Wells Fargo Commercial Distribution Finance (successor in interest to GE Commercial Distribution Finance Corporation) (Exhibit Q)
20. The Equipment Finance Lender Agreements are not necessary for the Debtor's continuing business operations or the administration of the Debtor's estate.
21. It is appropriate to allow the Equipment Finance Lenders to be granted relief from the automatic stay to repossess any and all equipment, parts, inventory or other items of personal property that are secured by properly perfected security interests.

22. The stay relief should be delayed until after the completion of the return of the equipment and parts to the Dealers.

### **Relief Requested**

23. By this Motion, the Debtor seeks entry of an Order, pursuant to § 365 of the Bankruptcy Code, rejecting each of the Executory Contracts attached here to as Exhibits A-G and allowing the Debtor to return the equipment listed on Exhibits H-N to each of the respective Dealers for credit in accordance with O.C.G.A. 13-8-22.
24. Further, Debtor seeks entry of an Order granting relief from the automatic stay to each Equipment Finance Lender to allow each of them to repossess any and all equipment, parts, inventory or other items of personal property that are secured by properly perfected security interests after the Dealer credits have been issued.

WHEREFORE, the debtor in possession prays for the entry of an order approving the rejection by the debtor in possession of the Executory Contracts described above in this motion.

This 25<sup>th</sup> day of June, 2020.

/s/ IAN M. FALCONE  
Ian M. Falcone  
Georgia Bar No. 254470  
Attorney for Debtor

THE FALCONE LAW FIRM, P.C.  
363 Lawrence Street  
Marietta, GA 30060  
(770) 426-9359  
[imf@falconefirm.com](mailto:imf@falconefirm.com)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

IN RE: :  
: CHAPTER 11  
GEORGIA DEER FARM INC : CASE NO. 20-10563-whd  
Debtor. :

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**CERTIFICATE OF SERVICE**

This is to certify that I have this day served the within and foregoing MOTION TO REJECT EXECUTORY CONTRACTS, TERMINATE FRANCHISE RELATIONSHIPS AND RETURN INVENTORY on the trustee and all parties listed below and those on the attached sheet by depositing a true and complete copy of the same in the United States Mail, with adequate postage thereon:

Jonathan Adams  
362 Richard B. Russell Building  
75 Ted Turner Drive  
Atlanta GA 30303

This 26th day of June 2020

/s/ IAN M. FALCONE  
Ian M. Falcone  
Georgia Bar No. 254470  
Attorney for Debtor

THE FALCONE LAW FIRM, P.C.  
363 Lawrence Street  
Marietta, GA 30060  
(770) 426-9359  
[imf@falconefirm.com](mailto:imf@falconefirm.com)

Label Matrix for local noticing  
113E-3  
Case 20-10563-lrc  
Northern District of Georgia  
Newnan  
Thu Jun 25 14:30:28 EDT 2020

A & I Products  
1020 22nd Ave  
Rock Valley, IA 51247-1442

AG Spray Equipment  
2401 Forrester Road  
Dothan, AL 36301-9584

AGCO Corporation  
4205 River Green Parkway  
Duluth, GA 30096-2584

AGCO Finance, LLC  
4205 River Green Parkway  
Duluth, GA 30096-2584

AT&T  
PO Box 5014  
Carol Stream, IL 60197-5014

Jonathan S. Adams  
Office of the United States Trustee  
362 Richard Russell Building  
75 Ted Turner Drive, SW  
Atlanta, GA 30303-3315

Alamo Sales Corp.  
1020 S. Sangamon Ave  
GibsonCity, IL 60936-1700

Ally Bank  
PO Box 130424  
Roseville, MN 55113-0004

Alpine Gas of Coweta, Inc.  
810 Highway 29N  
Newnan, GA 30263-4736

American Express  
PO box 650448  
Dallas, TX 75265-0448

American Express National Bank  
c/o Becket and Lee LLP  
PO Box 3001  
Malvern PA 19355-0701

Americas Idea, Inc.  
dba MTL Attachments  
1906 Old Highway 100 S  
Tallapoosa, GA 30176-4210

Athens Seed Co., Inc.  
63 Depot Street  
Watkinsville, GA 30677-2631

Auto Parts Company  
200 Maple St  
Carrollton, GA 30117-3233

Bell Equipment, LLC/Bestway AG  
800 Moore Street  
Inverness, MS 38753

Virginia B. Bogue  
Kaplan, Bogue & Cooper, P.C.  
Suite D-99  
5901 Peachtree Dunwoody Road  
Atlanta, GA 30328-5382

Briggs & Stratton Power Product  
100 E. Seneca Street  
Sherrill, NY 13461-1008

David L. Bury Jr.  
Stone & Baxter, LLP  
Suite 800  
Fickling & Co. Building  
577 Mulberry Street  
Macon, GA 31201-8239

Bush Whacker  
3706 E. Washington Avenue  
North Little Rock, AR 72114-6436

Caldwell Farms  
707 Lower Caldwell Roads  
Bowdon, GA 30108-3675

S. Jacob Carroll  
Freeman Mathis & Gary LLP  
100 Galleria Parkway  
Suite 1600  
Atlanta, GA 30339-5948

Carrollton Hydraulics  
220 Brumbelow Road  
Carrollton, GA 30117-2744

(p)JPMORGAN CHASE BANK N A  
BANKRUPTCY MAIL INTAKE TEAM  
700 KANSAS LANE FLOOR 01  
MONROE LA 71203-4774

Timothy J. Colletti  
Baker, Donelson, Bearman, et al  
1600 Monarch Plaza  
3414 Peachtree Road, NE  
Atlanta, GA 30326-1153

Dirt Dog Mfg  
2405 US 441  
Commerce, GA 30529-4889

Jill R. Dunn  
Freeman Mathis & Gary, LLP  
Suite 1600  
100 Galleria Parkway  
Atlanta, GA 30339-5948

Express Oil Change, LLC  
737 3rd Avenue West  
Birmingham, AL 35204-4018

Faithway Feed Co. LLC  
4201 Lake Guntersville Park Dr  
Guntersville, AL 35976

Ian M. Falcone  
The Falcone Law Firm, P.C.  
363 Lawrence Street  
Marietta, GA 30060-2056



Fastline Media Group, LLC  
P O Box 248  
Buckner, KY 40010-0248

Fastline Publications  
PO Box 248  
Buckner, KY 40010-0248

Fletcher Oil Company  
1266 Banhead Highway #8558  
Carrollton, GA 30116-8558

(p)FORD MOTOR CREDIT COMPANY  
P O BOX 62180  
COLORADO SPRINGS CO 80962-2180

Kathleen G. Furr  
Baker Donelson  
3414 Peachtree Road, NE  
Suite 1600  
Atlanta, GA 30326-1164

(p)GEORGIA DEPARTMENT OF REVENUE  
COMPLIANCE DIVISION  
ARCS BANKRUPTCY  
1800 CENTURY BLVD NE SUITE 9100  
ATLANTA GA 30345-3202

GFL Environmental  
2699 Cohran INdustrial Blvd  
Douglasville, GA 30134-1332

Gallagher Power Fence Inc.  
5005 NW 41st Street  
Riverside, MO 64150-7801

Georgia Deer Farm, Inc.  
850 N. Highway 27  
Roopville, GA 30170-2158

HY-Capacity - Georgia  
1404 13th St S  
Humboldt, IA 50548-2469

Haney Farm & Ranch  
448 Nathan Dean Bypass  
Rockmart, GA 30153-1649

Brian W. Hockett  
Thompson Coburn LLP  
One U.S. Bank Plaza  
St. Louis, MO 63101-1693

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 7346  
PHILADELPHIA PA 19101-7346

Internal Revenue Service  
P. O. Box 7346  
Philadelphia, PA 19101-7346

Leon S. Jones  
Jones & Walden, LLC  
699 Piedmont Avenue NE  
Atlanta, GA 30308-1400

Kelley Manufacturing Co.  
P.O. Box 1467  
Tifton, GA 31793-1467

Kelley Manufactorying Co,  
80 Vernon Drive  
Tifton, GA 31794-8821

Kuhn North America, Inc.  
1501 7th Avenue W  
Brodhead, WI 53520-1637

Ronald A. Levine  
Levine & Block, LLC  
P.O. Box 422148  
Atlanta, GA 30342-9148

Mahindra  
9020 Jackrabbit Road  
Houston, TX 77095-3397

Mahindra Finance  
9020 Jackrabbit Road  
Houston, TX 77095-3492

Mahindra Finance USA LLC  
PO Box 2000  
Johnston, IA 50131-0020

Mahindra USA, Inc.  
9020 Jackrabbit Road, Suite 600  
Houston, TX 77095-3398

Michael J. Marshall  
Donner, Marshall & Sims  
3717 Vineville Avenue  
Macon, GA 31204-1854

Modern AG Products Ltd  
1655 Louisiana Street  
Beaumont, TX 77701-1120

Owens Farm Equipment  
840 Historic Hmer Hwy  
Homer, GA 30547-2854

Power Distributors  
225 Henru D Robinson Road  
Pendergrass, GA 30567-4653

Priefert Manufacturing  
2630 S. Jefferson Ave  
Mount Pleasant, TX 75455-5961

Rhino Alamo Group - AG Div  
1020 South Sangamon Ave  
Gibson City, IL 60936-1700

Santander Consumer USA, Inc.  
d/b/a Chrysler Capital  
P.O. Box 961275  
Fort Worth, TX 76161-0275

Seagreen Fertilizers  
PO Box 1747  
Snellville, GA 30078-1747

Secretary of the Treasury  
15th & Pennsylvania Avenue, NW  
Washington, DC 20200

Southern Marketing Affiliates  
2623 Commerce Drive  
Jonesboro, AR 72401-9159

Southside Clutch  
1157 Providence Road  
Roopville, GA 30170-3838

Southside Tire  
2150 US-27  
Carrollton, GA 30117

Sparex Inc.  
190 Lena Drive  
Aurora, OH 44202-9202

Spartan Mowers  
1 Bad Boy Blvd  
Batesville, AR 72501-5521

Superior Mountain Water  
PO Box 1885  
Carrollton, GA 30112-0036

Synovus Bank  
c/o Thompson, O'Brien, Kemp & Nasuti, PC  
40 Technology Parkway South Suite 300  
Peachtree Corners, GA 30092-2924

TCF Inventory Finance  
1475 East Woodfield Road  
Suite 100  
Schaumburg, IL 60173-5466

TCF Inventory Finance, Inc.  
c/o Brian W. Hockett, Esq.  
Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, MO 63101-1693

U. S. Securities and Exchange Commission  
Office of Reorganization  
Suite 900  
950 East Paces Ferry Road, NE  
Atlanta, GA 30326-1382

United States Attorney  
Northern District of Georgia  
75 Ted Turner Drive SW, Suite 600  
Atlanta GA 30303-3309

United States Trustee  
362 Richard Russell Federal Building  
75 Ted Turner Drive, SW  
Atlanta, GA 30303-3315

Van's Equipment Company  
2169 Sylvester Highway  
Moultrie, GA 31768-9120

W.R. Long Inc.  
1607 Cedar Street  
Tarboro, NC 27886-2464

Jeffrey S. Ward  
Drew, Eckl & Farnham, LLP  
Suite 305  
777 Gloucester Street  
Brunswick, GA 31520-0002

Wells Fargo CDF  
1209 Orange Street  
Wilmington, DE 19801-1120

Wells Fargo Commercial Distribution Finance,  
P. O. Box 206740  
Dallas, TX 75320-6740

David C. Whitridge  
Thompson, O'Brien, Kemp & Nasuti, PC  
Suite 300  
40 Technology Parkway South  
Peachtree Corners, GA 30092-2924

Wilson Sign dba Wilson Outdoor  
923 Wooping Creek Road  
Carrollton, GA 30116-8991

Woods Equipment Company  
2606 IL Route 2 South  
PO Box 1000  
Oregon, IL 61061-1000

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Chase Cardmember Services  
PO Box 6294  
Carol Stream, IL 60197-6294

Ford Motor Credit Company, LLC  
Drawer 55-953  
P.O. Box 55000  
Detroit, MI 48255-0953

GA DOR  
ARCS-BK Compliance Div  
1800 Century Blvd Ste 9100  
Atlanta, GA 30345

IRS  
PO Box 21126  
Philadelphia, PA 19114

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)AGCO Corporation  
4205 River Green Parkway  
Duluth, GA 30096-2584

(u)Alamo Sales Corp. for RhinoAG, Inc.

(u)Ford Motor Credit Company, LLC, A Delaware

(u)Kuhn North America, Inc.

(u)Mahindra Finance USA, LLC

(u)Mahindra USA, Inc.

(u)Synovus Bank

(u)TCF Inventory Finance, Inc.

(u)Wells Fargo Commercial Distribution Financ

End of Label Matrix

Mailable recipients	81
Bypassed recipients	9
Total	90