

WINDELS MARX LANE & MITTENDORF, LLP  
*Counsel for Buyk Corp., Debtor and Debtor in Possession*  
156 West 56th Street  
New York, New York 10019  
Telephone (212) 237-1000  
Attorney Appearing: James M. Sullivan ([jsullivan@windelsmarx.com](mailto:jsullivan@windelsmarx.com))

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

BUYK CORP.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 22-10328-mew

**MOTION PURSUANT TO BANKRUPTCY RULE 9006(c) TO SHORTEN THE NOTICE PERIOD WITH RESPECT TO DEBTOR'S MOTION PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY CODE AND RULE 9019 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE FOR AN ORDER AUTHORIZING AND APPROVING SETTLEMENT AND TERMINATION AGREEMENT BETWEEN DEBTOR AND NATIONWIDE INDUSTRIAL SUPPLY, LLC**

**TO THE HONORABLE MICHAEL E. WILES,  
UNITED STATES BANKRUPTCY JUDGE:**

Buyk Corp. (the “**Debtor**”), debtor and debtor-in-possession in the above-captioned chapter 11 case. by its undersigned attorneys, hereby submits this motion (“the **Motion to Shorten Time**”) for entry of an order (A) shortening the notice period pursuant to Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) with respect to Debtor’s motion (the “**Motion**”)<sup>2</sup> for the entry of an Order pursuant to section 105(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) authorizing and approving the Settlement and Termination Agreement (the “**Agreement**”) between Buyk and Nationwide

<sup>1</sup> The Debtor in this case, along with the last four digits of its federal tax identification number is Buyk Corp. (1477). The Debtor’s principal place of business is 245 East 93rd Street, Ste. 22E, New York, NY 10128.

<sup>2</sup> The Motion will be filed contemporaneously with this Motion to Shorten Time. Capitalized terms not defined herein are ascribed the definitions given to them in the Motion.



Industrial Supply, LLC (“*NIS*”, and together with Buyk, the “*Parties*”). In support of its Motion to Shorten Time, Debtor states as follows:

### **JURISDICTION**

1. This Court has jurisdiction over this Motion to Shorten Time pursuant to 28 U.S.C. §§ 157 and 1334. The statutory basis for the relief sought is Bankruptcy Rule 9006. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this case and motion within this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

2. As set forth in the Motion, on March 17, 2022, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with this Court.

3. On March 17, 2022 (the “**Petition Date**”), the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court (the “**Bankruptcy Case**”). The Debtor continues to operate its business and manage its properties as debtor-in-possession pursuant to section 1184 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in this Bankruptcy Case.

4. Information regarding the Debtor’s business, capital structure, and the circumstances leading to the commencement of the Bankruptcy Case is set forth in the *Declaration of James Walker pursuant to Local Bankruptcy Rule 1007-2 and in support of First Day Motions and Applications* [Doc. No. 9] filed on the Petition Date.

5. The Debtor has reached an agreement with NIS which settles and provides for the orderly termination of an Operating Services Agreement, dated November 1, 2021, between the parties and also releases a Warehouseman’s lien asserted by NIS against the Debtor. Moreover, since the Debtor determined that the sale of the Equipment held at the NIS Warehouses is in the best interest of its creditors and estate, the Agreement will only advance the Debtor’s efforts

toward liquidating these assets.

6. The Debtor determined that the terms of the Agreement are in the best interests of the Debtor and its estate. The Debtor made this determination after considering numerous factors, including the resolution of NIS's claims against the Debtor and the opportunity to benefit from NIS logistical support, which will only further the Debtor's efforts to the expeditious sale of its Equipment. In short, the Debtor has determined that entering this Agreement and commencing its terms as soon as possible are essential to ensuring that the liquidation of the Equipment is managed efficiently and effectively.

7. As set forth in the Motion and the Declaration of James M. Sullivan Pursuant to Local Bankruptcy Rule 9077-1 (the "**Sullivan Declaration**") attached as **Exhibit "A"** to this Motion to Shorten Time, entry into the Agreement and the proposed sales of the Equipment are critical to the Debtor's successful liquidation of its assets and avoidance of unnecessary administrative expenses.

#### **RELIEF REQUESTED**

8. By this Motion to Shorten Time, Debtor requests that the Court enter the Order Scheduling Hearing on Shortened Notice (the "**Scheduling Order**") attached as Exhibit 1 to the Sullivan Declaration. The Debtor requests the scheduling of a hearing on the Motion **as soon as possible, but no later than August 23, 2022.**

#### **BASIS FOR RELIEF REQUESTED**

9. Under Bankruptcy Rule 9019(a), notice must be given of a motion for approval of a compromise or settlement. Bankruptcy Rule 9019(a) clarifies further provides that such notice shall be given "as provided in Rule 2002". Fed. R. Bankr. P. 9019(a). Bankruptcy Rule 2002(a)(3) requires at least 21 days for notice of a hearing on approval of compromise or settlement of a controversy. Fed. R. Bankr. P. 2002(a)(3).

10. Pursuant to Bankruptcy Rule 9006(c)(1), “when an act is required, or allowed to be done at or within a specified time . . . by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.”

11. Bankruptcy Rule 9006(c)(1) also permits a court to reduce the time required for notice “for cause shown”. Fed. R. Bankr. P. 9006(c)(1). Bankruptcy Rule 9006(c)(2) lists particular situations in which a reduction of time is not permitted, but approval of a compromise or settlement of a controversy under Bankruptcy Rule 9019 is not among those prohibited situations. Accordingly, the Court, in its discretion, may reduce the time required for notice of the Motion.

12. Bankruptcy Rule 9007 provides that when notice is to be given under the Bankruptcy Rules, the court shall designate, if not otherwise specified therein, the time within which, the parties to whom, and the form and manner in which the notice shall be given.

13. A hearing and approval of the Agreement must occur promptly to minimize the debilitating administrative expenses associated with the ongoing warehousing of the Equipment. As set forth in the Sullivan Declaration, the Agreement: (i) offers the Debtor the opportunity to resolve NIS claims against the Estate; (ii) avails the Debtor of NIS logistical support which will only support the expedient liquidation of Debtor’s assets, and (iii) incentivizes the Debtor to complete the emptying of the Warehouses via commensurate reductions in Logistics fees, all of which make it imperative that the Debtor be given the authority to enter the Agreement and move toward liquidating the Equipment as quickly as possible.

14. For all the foregoing reasons, Debtor submits that there is sufficient cause under Bankruptcy Rules 9006(c)(1) and 9007 to shorten the notice time for the Motion.

#### **NOTICE**

15. Pursuant to Bankruptcy Rule 9006(c)(1), a motion to shorten time may be

considered and granted without notice. Accordingly, Debtor has not served this Motion to Shorten Time. Nevertheless, all parties who have signed up for the Court's electronic case filing system will receive notice of this Motion to Shorten Time. The Debtor respectfully submits that no other or further notice is necessary under the circumstances.

16. In the event that the Court enters the Scheduling Order, the Debtor will provide notice as follows: (a) by service of the Scheduling Order and the Motion, with all exhibits thereto, by electronic mail on: (i) the Office of the United States Trustee for the Southern District of New York; (ii) Legalist DIP Fund I, LP; and (iii) counsel for NIS; and (b) by service of the Scheduling Order by electronic mail on all entities that have requested notice in this Chapter 11 Case.

17. In addition, the Debtor respectfully requests that the Court approve the provisions of the Scheduling Order requiring that, to be considered, objections to the Motion must be in writing, filed with the Court and served so as to be received no later than 5:00 p.m. on a date at least four days before the Hearing, by (a) counsel for the Debtor, Windels Marx Lane & Mittendorf, LLP, 156 West 56<sup>th</sup> Street, New York, New York 10019, Attn: James M. Sullivan, Esq., (b) counsel for NIS, Saiber LLC, 18 Columbia Turnpike, Suite 200, Florham Park, NJ 07932 (Attn: John M. August, Esq.) and Olender Feldman LLP, 422 Morris Avenue, Summit, New Jersey 07901 (Attn: Kurt D. Olender, Esq.), and (c) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, New York 10014, Attn: Mark Bruh, Esq.

18. The Debtor submits that the notice of the Motion and the hearing as provided for herein comply fully with Bankruptcy Rule 2002 and Local Bankruptcy Rule 2002-1, and constitutes good and adequate notice of the Motion and the proceedings with respect thereto. Therefore, the Debtor respectfully requests that this Court approve the notice procedures employed above and enter the Scheduling Order reducing and fixing the notice required for the

Motion.

**NO PRIOR REQUEST**

19. No prior request for the relief sought herein has been made to this or any other court.

**CONCLUSION**

**WHEREFORE**, it is respectfully requested that the Court enter the Scheduling Order that would (i) schedule a hearing on the Motion **as soon as possible, but no later than August 23, 2022**, (ii) establish an objection deadline so that objections are to be filed and served so as to be received at least no later than 5:00 p.m. (E.T.) on a date at least four days before the scheduled hearing, and (iii) grant such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
August 11, 2022

Respectfully submitted,

WINDELS MARX LANE & MITTENDORF, LLP  
*Counsel for Buyk Corp., Debtor and Debtor-in-Possession*

By: /s/ James M. Sullivan  
James M. Sullivan ([jsullivan@windelsmarx.com](mailto:jsullivan@windelsmarx.com))  
156 West 56<sup>th</sup> Street  
New York, New York 10019  
Tel. (212) 237-1000 / Fax. (212) 262-1215

WINDELS MARX LANE & MITTENDORF, LLP  
Attorneys for Buyk Corp., Debtor and Debtor in Possession  
156 West 56th Street  
New York, New York 10019  
Telephone (212) 237-1000  
Attorney Appearing: James M. Sullivan (jsullivan@windelsmarx.com)

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

BUYK CORP.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 22-10328-mew

**DECLARATION OF JAMES M. SULLIVAN PURSUANT TO LOCAL BANKRUPTCY  
RULE 9077-1(a) IN SUPPORT OF DEBTOR'S MOTION PURSUANT TO SECTION  
105(a) OF THE BANKRUPTCY CODE AND RULE 9019 OF THE FEDERAL RULES  
OF BANKRUPTCY PROCEDURE FOR AN ORDER AUTHORIZING AND  
APPROVING SETTLEMENT AND TERMINATION AGREEMENT BETWEEN  
DEBTOR AND NATIONWIDE INDUSTRIAL SUPPLY, LLC**

James M. Sullivan, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a Partner at the law firm of Windels Marx Lane & Mittendorf, LLP, attorneys for Buyk Corp. (the "**Debtor**"), debtor and debtor-in-possession in the above-captioned chapter 11 case.

2. I make this declaration under Local Bankruptcy Rule 9077-1(a) in support of Debtor's motion pursuant to Bankruptcy Rule 9006(c) to shorten the notice period (the "**Motion to Shorten Time**") seeking entry of the proposed scheduling order (the "**Scheduling Order**"), attached as **Exhibit "1"**, with respect to the Debtor's motion (the "**Motion**")<sup>2</sup> for an order pursuant to section 105(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the "**Bankruptcy Code**") and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the

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<sup>2</sup> Capitalized terms not defined herein are ascribed the definitions given to them in the Motion.

“*Bankruptcy Rules*”) authorizing and approving the Settlement and Termination Agreement (the “*Agreement*”) between Buyk and Nationwide Industrial Supply, LLC (“*NIS*”, and together with Buyk, the “*Parties*”).

3. Bankruptcy Rule 2002(a)(3) requires at least 21 days for notice of proposed compromises or settlements under Bankruptcy Rule 9019. Fed. R. Bankr. P. 2002(a)(3).

4. Bankruptcy Rule 9006(c) states that the court for cause shown may in its discretion with or without motion or notice order the period reduced. Bankruptcy Rule 9007 provides that when notice is to be given under the Bankruptcy Rules, the court shall designate, if not otherwise specified therein, the time within which, the parties to whom, and the form and manner in which the notice shall be given.

5. Although not specifically defined, it is respectfully submitted that cause exists under Bankruptcy Rules 9006(c) and 9007 to shorten the notice of the hearing on the Motion.

6. A hearing and approval of the Agreement must occur promptly to reduce Debtor’s incurrence of debilitating administrative expenses from the ongoing warehousing of its Equipment and allow it to more expeditiously liquidate these assets. The Agreement allows the Debtor the opportunity to resolve the NIS claims against the Estate while also benefiting from its logistical support, and also incentivizes the Debtor to complete the liquidation of the Equipment held in the Warehouses by reducing Logistical Fees as the emptying of each warehouse is completed. In short, with the prompt approval of the Agreement, the Debtor can proceed without impediment toward the liquidation of a substantial portion of its assets. All of these factors make it imperative that the Debtor be given authority to enter the Agreement and liquidate the Equipment as quickly as possible.



7. Accordingly, the Debtor requests that the Court enter the Scheduling Order that would set a hearing to consider the Motion **as soon as possible, but no later than August 23, 2022.**

8. No prior request for this relief has been made to this or any other Court.

**WHEREFORE,** it is respectfully requested that the Court enter the Scheduling Order that would (i) schedule a hearing on the Motion as soon as possible, but no later than August 23, 2022, (ii) establish an objection deadline so that objections are to be filed and served so as to be received no later than 5:00 p.m. (ET) on a date at least four days before the scheduled hearing, (iii) grant such other and further relief as the Court may deem just and proper.

I declare under penalty of perjury that the information contained in this Declaration is true and correct.

Executed on the 11th day of August, 2022, at New York, New York.

/s/ James M. Sullivan  
James M. Sullivan

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

BUYK CORP.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 22-10328-mew

**ORDER SCHEDULING HEARING ON SHORTENED NOTICE WITH RESPECT TO  
DEBTOR'S MOTION PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY  
CODE AND RULE 9019 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE  
FOR AN ORDER AUTHORIZING AND APPROVING SETTLEMENT AND  
TERMINATION AGREEMENT BETWEEN DEBTOR AND NATIONWIDE  
INDUSTRIAL SUPPLY, LLC**

Upon the Motion Pursuant to Bankruptcy Rule 9006(c) to Shorten the Notice Period (the “**Motion to Shorten Time**”) of Buyk Corp. (the “**Debtor**”), debtor and debtor-in-possession in the above captioned chapter 11 case, by its undersigned counsel, Windels Marx Lane & Mittendorf, LLP, for entry of this order scheduling a hearing on shortened notice of Debtor’s motion (the “**Motion**”)<sup>2</sup> for the entry of an Order pursuant to section 105(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) authorizing and approving the Settlement and Termination Agreement (the “**Agreement**”) between Buyk and Nationwide Industrial Supply, LLC (“**NIS**”, and together with Buyk, the “**Parties**”); and upon the Declaration of James M. Sullivan, pursuant to Local Bankruptcy Rule 9077-1, in support of the Motion to Shorten Time; and upon all prior pleadings and proceedings herein; and the Court having jurisdiction to consider the Motion to Shorten Notice; and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having concluded that scheduling a

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hearing on shortened notice (the “**Hearing**”) to consider the relief requested in the Motion would be beneficial and appropriate; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is

**ORDERED**, that **the Hearing will be held on August 23, 2022 at 10:00 a.m., prevailing Eastern Time**, before The Honorable Michael E. Wiles, United States Bankruptcy Judge for the Southern District of New York; and, it is further

**ORDERED**, that the Hearing will be conducted telephonically pursuant to Judge Wiles’ Chambers Rules, which may be found at <https://www.nysb.uscourts.gov/content/judge-michael-e-wiles>. Unless the Court provides otherwise, parties wishing to participate in the Hearing must register with Court Solutions. Attorneys seeking to participate must be admitted to the Court or admitted *pro hac vice*. (See Local Bankruptcy Rule 2090-1). Information on how to register with Court Solutions and additional instructions set forth in General Order M-543 can be found on the Court’s website, and, it is further

**ORDERED**, that a copy of this Order and the Motion, with all exhibits thereto, shall be served by electronic mail on or before August 12, 2022 on (i) the Office of the United States Trustee for the Southern District of New York; (ii) Legalist DIP Fund I, LP; and (iii) NIS. A copy of this Order will also be served by electronic mail on all entities that have requested notice in this Chapter 11 Case. The Debtor will file proof of service with the Court; and, it is further

**ORDERED**, that service in accordance with this Order shall be deemed good and sufficient notice of the Hearing and the relief sought in the Motion; and, it is further

**ORDERED**, that objections (if any) must be made in writing and must be filed and served on (a) counsel for the Debtor, Windels Marx Lane & Mittendorf, LLP, 156 West 56<sup>th</sup> Street, New York, New York 10019, Attn: James M. Sullivan, Esq., (b) counsel for NIS, Saiber

LLC, 18 Columbia Turnpike, Suite 200, Florham Park, NJ 07932 (Attn: John M. August, Esq.) and Olender  
Feldman LLP, 422 Morris Avenue, Summit, New Jersey 07901 (Attn: Kurt D. Olender, Esq.), and (c) the  
Office of the United States Trustee for the Southern District of New York, 201 Varick Street,  
Suite 1006, New York, New York 10014, Attn: Mark Bruh, Esq., so as to be received **no later  
than 5:00 p.m. (ET) on August 19, 2022.**

Dated: New York, New York  
\_\_\_\_\_, 2022

PROPOSED

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United States Bankruptcy Judge