

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

IN RE: ) CHAPTER 11  
)  
P-D VALMIERA GLASS USA CORP., ) CASE NO. 19-59440-pwb  
)  
Debtor. )  
\_\_\_\_\_)

**NOTICE OF HEARING ON THIRD OMNIBUS MOTION SEEKING ENTRY  
OF AN ORDER AUTHORIZING DEBTORS TO REJECT EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES AND DEADLINE TO OBJECT**

The above-captioned Debtor has filed a *Third Omnibus Motion Seeking Entry of an Order Authorizing Debtor to Reject Executory Contracts and Unexpired Leases* (the “**Motion**”) in which the Debtor has requested that the Court authorize the Debtor to reject certain contracts and leases effective as of the date of the Motion. A copy of the Motion is available upon request to undersigned counsel, or by downloading at <http://www.kccllc.net/ValmieraGlassUSA>. Pursuant to General Order No. 24-2018, **the Court may consider this matter without further notice or a hearing if no party in interest files a response opposing the Motion on or before February 17, 2020. If you oppose the relief requested in the Motion, you must timely file your response in opposition to the Motion with the Bankruptcy Clerk at Clerk, U.S. Bankruptcy Court, 75 Ted Turner Drive, SW, Room 1340, Atlanta, GA 30303, and serve a copy on the Debtor’s attorney, J. Hayden Kepner, Jr., Scroggins & Williamson, P.C., 4401 Northside Parkway, Suite 450, Atlanta, GA 30327 by the response deadline. The response must explain your position and be actually received by the Bankruptcy Clerk within the required time.**

A hearing on the Motion has been scheduled for **February 25, 2020 at 10:00 a.m. in Courtroom 1401, United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303.** If a response is timely filed and served, the hearing will proceed as scheduled. **If you do not file a response within the time permitted, the Court may grant the relief requested without further notice or a hearing provided that an order approving the relief requested is entered at least one business day prior to the scheduled hearing.** If no response is timely filed, but no order is entered granting the relief requested at least one business day prior to the hearing, the hearing will be held at the time and place as scheduled.

**Your rights may be affected. You should read these papers carefully and discuss with your attorney, if you have one in this bankruptcy case. If you do not have any attorney, you may wish to consult one.**



**NOTICE IS HEREBY GIVEN** this 23rd day of January, 2020.

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Georgia Bar No. 416616

*Counsel for the Debtor*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
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IN RE: )  
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P-D VALMIERA GLASS USA CORP., )  
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CHAPTER 11  
CASE NO. 19-59440-pwb

**THIRD OMNIBUS MOTION SEEKING ENTRY OF AN ORDER AUTHORIZING DEBTOR TO REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**PARTIES TO CONTRACTS, LEASES OR LICENSES WITH DEBTOR SHOULD EXAMINE EXHIBIT A ATTACHED HERETO TO LOCATE THEIR NAMES AND CONTRACTS, LEASES OR LICENSES**

COMES NOW, P-D Valmiera Glass USA Corp. (the “**Debtor**”), the debtor and debtor in possession in this Chapter 11 case (the “**Case**”), and files this Motion (the “**Motion**”), by and through the undersigned counsel, and moves this Court for entry of an order pursuant to 11 U.S.C. §§ 365 and 105(a), rejecting the executory contracts and unexpired leases (the “**Contracts**”)<sup>1</sup> set forth on Exhibit A attached hereto. In support of this Motion, the Debtor respectfully represents as follows:

**Jurisdiction**

1.

This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these proceedings and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief sought herein is Section 365 of Title 11, United States

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<sup>1</sup> The Contracts include, but are not limited to, any amendments, ancillary agreements, or other addendums to the agreements listed in Exhibit A.

Code (the “**Bankruptcy Code**”) and Rule 6006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

### Background

2.

On June 17, 2019 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief with the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “**Court**”) under Chapter 11 of the Bankruptcy Code. The Debtor is authorized to operate its business as a debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

3.

On or about July 8, 2019, an Official Committee of Unsecured Creditors (the “**Committee**”) was appointed in this case.

4.

The Debtor is a Georgia corporation and the only United States entity which is a member of Valmiera Glass Group. Valmiera Glass Group is comprised of Valmieras Stikla Šķiedra, AS (“**VSS**”)<sup>2</sup>, the Debtor’s Latvian parent company (located in Latvia), Valmiera Glass UK Ltd., a sister company to the Debtor (located in the United Kingdom), and P-D Valmiera Glass USA Corp. (located in Georgia). Together with its parent and sister companies, the Debtor is a vertically integrated supplier of various composite materials to the aviation industry, architecture and other industries. The Debtor’s operations focus on the production and distribution of glass fiber and glass fiber products from its manufacturing facility in Dublin, Georgia. The Debtor’s business has been organized by two units. “Phase I” became operational in 2015 and is engaged in the production of needle mats which provide insulation for industrial uses. In 2017, the Debtor

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<sup>2</sup> VSS is a publicly traded Latvian company which holds a 52% interest in the Debtor. On June 17, 2019, VSS filed a Legal Protection Proceeding in Latvia in order to negotiate a restructuring agreement with its creditors.

launched “Phase II” of its operations and built a fiberglass furnace for the production of glass fiber. Phase II has proven to be unprofitable and a cash drain on the remaining portion of the Debtor’s business; therefore, Phase II operations have been shut down.

6.

The Contracts identified on Exhibit A are no longer needed by the Debtor and are, therefore, burdensome for the Debtor’s estate. For this reason, the Debtor seeks to reject the Contracts identified on Exhibit A as of the date of this Motion.

**Relief Requested**

7.

By this Motion, the Debtor seeks entry of an order, pursuant to Section 365 of the Bankruptcy Code, authorizing the Debtor to reject each and every Contract identified on Exhibit A attached hereto as of the date of this Motion.<sup>3</sup>

8.

The Bankruptcy Code allows a trustee to reject executory contracts and unexpired leases. Section 365(a) of the Bankruptcy Code provides in pertinent part that a trustee, “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); *see also*, *University Medical Ctr. v. Sullivan (In re University Medical Ctr.)*, 973 F.2d 1065, 1075 (3rd Cir. 1992). The standard applied to determine whether the rejection of an executory contract or unexpired lease should be authorized is the “business judgment” standard. *See Sharon Steel Corp. v. Nat’l Fuel Gas Distr. Corp.*, 872 F.2d 36, 40 (3rd Cir. 1989); *Glenstone*

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<sup>3</sup> As a protective measure, the Debtor has included on Exhibit A all documents denominated as a “contract” or “lease” on the Debtor’s books and records and/or on the face of the document, regardless of whether the terms of the document may make it a disguised financing agreement not subject to assumption or rejection. This Motion is filed without prejudice to the right of the Debtor to later assert that any document characterized as a “lease” or “contract” was in reality a financing agreement, or otherwise not an executory contract within the meaning of Section 365.

*Lodge, Inc. v. Buckhead Am. Corp. (In re Buckhead Am. Corp.)*, 180 B.R. 83, 88 (D. Del. 1995); *see also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984). This standard is satisfied if the trustee determines in his business judgment that the estate would benefit by the rejection of the contract or lease. *See Sharon Steel Corp.*, 872 F.2d at 39-40 (citing *In re Wheeling-Pittsburgh Steel Corp.*, 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987)).

9.

The decision to reject the Contracts identified on Exhibit A is clearly an exercise of the Debtor's sound business judgment. The Contracts are of no benefit to the Debtor's estate and any continuing obligation the Debtor would have under the Contracts would constitute an unnecessary financial burden to the Debtor's estate and cause a depletion of the Debtor's limited resources. Accordingly, it is in the best interests of Debtor, its estate and its creditors that the Debtor be permitted to reject the Contracts, as requested herein.

10.

No previous application for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests entry of an order authorizing and approving the rejection of the Contracts identified on Exhibit A effective as of the date of this Motion and granting such other and further relief as the Court may deem just and proper.

This 23rd day of January, 2020.

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*Counsel for the Debtor*

**EXHIBIT "A"**

**List of Executory Contracts and Unexpired Leases to be Rejected**



Non-Debtor Party to Lease or Contract	Lease/Contract	Monthly Payment Obligation
The Dublin Three, LLC	Lease of 2018 Nissan Altima (Lease No. 25008184376)	\$408.11
The Dublin Three, LLC	Lease of 2018 Nissan Altima (Lease No. 25008191851)	\$408.11
The Dublin Three, LLC	Lease of 2018 Nissan Altima (Lease No. 25008191745)	\$408.11
Nissan Motor Acceptance Corporation	Lease of Two Forklifts (Lease No. 32237390)	\$844.00
Nissan Motor Acceptance Corporation	Lease of One Forklift (Lease no. 33646756)	\$439.00
Wells Fargo Vendor Fin Serv	Lease of Scrubber (Contract No. 450-9808763-001)	\$491.07