

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF VITAMIN OLDSCO HOLDINGS, INC., VITAMIN OLDSCO CENTRES COMPANY, VITAMIN OLDSCO PARENT LLC, VITAMIN OLDSCO CORPORATION, VITAMIN OLDSCO CENTERS, INC., VITAMIN OLDSCO, INC., VITAMIN OLDSCO INVESTMENT COMPANY, VITAMIN OLDSCO LUCKY CORPORATION, VITAMIN OLDSCO FUNDING, INC., VITAMIN OLDSCO INTERNATIONAL HOLDINGS, INC., VITAMIN OLDSCO HEADQUARTERS LLC, VITAMIN HOLDSCO ASSOCIATES, LTD., VITAMIN OLDSCO CANADA HOLDINGS, INC., VITAMIN OLDSCO GOVERNMENT SERVICES, LLC, VITAMIN OLDSCO PUERTO RICO HOLDINGS, INC., AND VITAMIN OLDSCO PUERTO RICO, LLC

APPLICATION OF VITAMIN OLDSCO HOLDINGS, INC., UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

**AFFIDAVIT OF MICHAEL NOEL
(affirmed October 29, 2020)**

I, Michael Noel, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am an associate at Torys LLP, Canadian counsel to Vitamin OldCo Holdings, Inc. (formerly known as "GNC Holdings, Inc.") ("**Vitamin Holdings**") in its capacity as the foreign representative (the "**Foreign Representative**") of itself as well as Vitamin OldCo Centres

Company, Vitamin OldCo Parent LLC, Vitamin OldCo Corporation, Vitamin OldCo Centers, Inc., Vitamin OldCo, Inc., Vitamin OldCo Investment Company, Vitamin OldCo Lucky Corporation, Vitamin OldCo Funding, Inc., Vitamin OldCo International Holdings, Inc., Vitamin OldCo Headquarters LLC, Vitamin Holdco Associates, Ltd., Vitamin OldCo Canada Holdings, Inc., Vitamin OldCo Government Services, LLC, Vitamin OldCo Puerto Rico Holdings, Inc., and Vitamin OldCo Puerto Rico, LLC (collectively, the “**Debtors**”), and, as such, have knowledge of the matters contained in this Affidavit. Where I do not possess such personal knowledge, I have stated the source of my information and, in all such cases, believe the information to be true.

2. I affirm this affidavit in support of the motion of the Applicant for certain relief for itself and the affiliated entities listed in Schedule “A” (the Debtors, and together with non-Debtor affiliates, the “**Company**”) pursuant to section IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”).

3. The Applicant seeks, among other things: (i) an order recognizing, and giving full force and effect in Canada to, the Additional U.S. Orders (as defined below) entered by the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”); and (ii) an order providing, upon the filing of a certificate of FTI Consulting Canada Inc., in its capacity as the information officer (in such capacity, the “**Information Officer**”), for the termination of the within CCAA recognition proceedings with respect to the Applicant and the discharge and release of the Information Officer, pursuant to section 49 of the CCAA.

4. Unless otherwise indicated, capitalized terms used in my affidavit and not otherwise defined shall have the meaning given to them in: (i) the affidavit of Tricia Tolivar sworn June 24, 2020 in these proceedings (the “**Tolivar Affidavit**”), which is contained in my affidavit affirmed September 27, 2020 as Exhibit “A” and (ii) my affidavit affirmed October 27, 2020 in this proceeding.

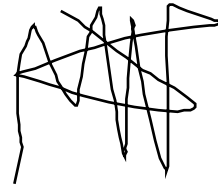
5. After I affirmed my second affidavit on October 29, 2020, the U.S. Court issued the Forty-Sixth (46th) Omnibus Order Authorizing the Debtors to Assume and Assign Certain Executory Contracts (“**46th Assumption Order**”). The 46th Assumption Order is attached as Exhibit “A”.

**AFFIRMED REMOTELY by Michael Noel
at the City of Toronto in the Province of
Ontario, before me on October 29, 2020 in
accordance with O.Reg. 431/20,
Administering Oath or Declaration
Remotely.**



Commissioner for Taking Affidavits
(or as may be)

LEORA JACKSON
(LSO #: 68448L)

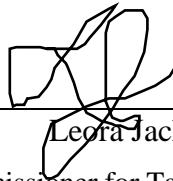


Michael Noel

Schedule A – List of Debtors

1. Vitamin OldCo Holdings, Inc.;
2. Vitamin OldCo Centres Company;
3. Vitamin OldCo Parent LLC;
4. Vitamin OldCo Corporation;
5. Vitamin OldCo Centers, Inc.;
6. Vitamin OldCo, Inc.;
7. Vitamin OldCo Investment Company;
8. Vitamin OldCo Lucky Corporation;
9. Vitamin OldCo Funding, Inc.;
10. Vitamin OldCo International Holdings, Inc.;
11. Vitamin OldCo Headquarters LLC;
12. Vitamin Holdco Associates, Ltd.;
13. Vitamin OldCo Canada Holdings, Inc.;
14. Vitamin OldCo Government Services, LLC;
15. Vitamin OldCo Puerto Rico Holdings, Inc.; and
16. Vitamin OldCo Puerto Rico, LLC.

THIS IS **EXHIBIT “A”** REFERRED TO IN THE
AFFIDAVIT OF MICHAEL NOEL,
AFFIRMED REMOTELY BY MICHAEL NOEL
BEFORE ME *BY VIDEO CONFERENCE*, THIS 29th
DAY OF OCTOBER, 2020.

A handwritten signature in black ink, appearing to read 'Leora Jackson', is positioned above a horizontal line.

Leora Jackson
Commissioner for Taking Affidavits

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

In re: Vitamin OldCo Holdings, Inc., (f/k/a GNC Holdings, Inc.), <i>et al.</i> , <p style="text-align: center;">Debtors.¹</p>)))))))))))	Chapter 11 Case No. 20-11662 (KBO) (Jointly Administered) Docket Ref. No. 1407
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**FORTY-SIXTH (46th) OMNIBUS ORDER AUTHORIZING
THE DEBTORS TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS**

Upon the motion (the “*Motion*”)² of the Debtors for an order (this “*Order*”), pursuant to section 365 of the Bankruptcy Code, authorizing the Debtors to assume and assign the Additional Contracts listed on **Schedule 1** attached hereto to the Assignee, effective as of the date of Closing; and this Court having reviewed the Motion; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order*

¹ The debtors in these Chapter 11 Cases, along with the last four digits of each debtor’s United States federal tax identification number, if applicable, or other applicable identification number, are: Vitamin OldCo Holdings, Inc. (f/k/a GNC Holdings, Inc.) (6244); Vitamin OldCo Parent LLC (f/k/a GNC Parent LLC) (7572); Vitamin OldCo Corporation (f/k/a GNC Corporation) (5170); Vitamin OldCo Centers, Inc. (f/k/a General Nutrition Centers, Inc.) (5168); Vitamin OldCo, Inc. (f/k/a General Nutrition Corporation) (4574); Vitamin OldCo Investment Company (f/k/a General Nutrition Investment Company) (3878); Vitamin OldCo Lucky Corporation (f/k/a Lucky Oldco Corporation) (7141); Vitamin OldCo Funding, Inc. (f/k/a GNC Funding, Inc.) (7837); Vitamin OldCo International Holdings, Inc. (f/k/a GNC International Holdings, Inc.) (9873); Vitamin OldCo Headquarters LLC (f/k/a GNC Headquarters LLC) (7550); Vitamin OldCo Associates, Ltd. (f/k/a Gustine Sixth Avenue Associates, Ltd.) (0731); Vitamin OldCo Canada Holdings, Inc. (f/k/a GNC Canada Holdings, Inc.) (3879); Vitamin OldCo Centres Company (f/k/a General Nutrition Centres Company) (0939); Vitamin OldCo Government Services, LLC (f/k/a GNC Government Services, LLC) (2226); Vitamin OldCo Puerto Rico Holdings, Inc. (f/k/a GNC Puerto Rico Holdings, Inc.) (4559); and Vitamin OldCo Puerto Rico, LLC (f/k/a GNC Puerto Rico, LLC) (7234). The debtors’ mailing address is 300 Sixth Avenue, Pittsburgh, Pennsylvania 15222.

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

of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b)(2); and this Court having authority to enter a final order consistent with Article III of the United States Constitution; and venue being proper before this Court under 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon all of the proceedings before this Court; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Debtors are authorized to assume and assign the Additional Contracts, identified on **Schedule 1** attached hereto, to the Assignee, effective as of the date of the Closing (the “Closing Date”). For the avoidance of doubt, the payment of all applicable cure costs, if any (as established pursuant to the Assumption Procedures under the Bidding Procedures Order), shall be paid by the Buyer, shall not be funded from the Disputed Cures Escrow Account established pursuant to the confirmed *Seventh Amended Joint Chapter 11 Plan of Reorganization of GNC Holdings, Inc. and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 1398] (the “**Plan**”) except to the extent that an amount was funded into the Disputed Cures Escrow Account on account of a particular Additional Contract pursuant to the Assumption Procedures under the Bidding Procedures Order, and shall, pursuant to section 365 of the Bankruptcy Code and other applicable law, (a) effect a cure of all defaults existing thereunder as of the Closing Date and (b) compensate for any actual pecuniary loss to each non-Debtor party resulting from any such defaults. Accordingly, on and as of the Closing Date, the Debtors shall not have any further

liabilities or obligations to the non-Debtor parties to the Additional Contracts arising prior to the Closing Date with respect to, and the non-Debtor parties to the Additional Contracts shall be forever barred, estopped and permanently enjoined from seeking, any additional amounts or Claims against the Debtors that arose, accrued, or were incurred at any time on or prior to the Closing Date on account of the Debtors' cure or compensation obligations arising under section 365 of the Bankruptcy Code; *provided*, that, notwithstanding anything to the contrary in this Order, all obligations arising under the Additional Contracts prior to the Closing Date, but that were not in default as of the Closing Date, shall be assumed by Buyer as of the Closing Date and paid by Buyer in the ordinary course of business as and when they come due.

3. Notwithstanding anything to the contrary in this Order or the Stalking Horse Agreement ("*SHA*") between the Debtors and Harbin Pharmaceutical Group Holding Co., Ltd., no contract between a Debtor and Oracle America, Inc., successor in interest to Dyn, Inc. and AddThis ("*Oracle*"), will be assumed and/or assigned without (1) Oracle's prior written consent; (2) cure of any default under such contract; and (3) execution by the Debtors or their successors and the Buyer of mutually agreeable assignment documentation in a final form to be negotiated after entry of this Order. In addition, no provision of this Order or the SHA shall be construed to authorize (1) the transfer of any Oracle license agreement to any third party; or (2) use of any Oracle license agreement that is inconsistent with the relevant license grant including, but not limited to, exceeding the number of authorized users, shared use or license splitting, absent Oracle's express prior written consent.

4. Except as specifically set forth herein, nothing included in or omitted from the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed

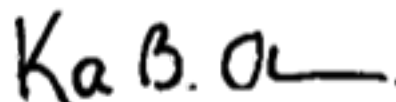
or construed as an admission as to the validity or priority of any claim against the Debtors, or a waiver of the rights of the Debtors and their estates.

5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

6. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise.

7. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: October 29th, 2020
Wilmington, Delaware

Handwritten signature of Karen B. Owens in black ink.

KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE

Schedule 1

GNC
Executory Contracts

	Counterparty	Contract Type / Name	Address
1)	ERIC S. MILLER	FRANCHISE AGREEMENT FOR STORE - 3755	608 MEADOWVIEW COURT MAPLE GLEN PA 19002 USA
2)	FIROOZ A. POSHTKOOHI	FRANCHISE AGREEMENT FOR STORE - 7650	7123 HOT CREEK TRACE HUMBLE TX 77346 USA
3)	FULLSCREEN, LLC	VIDEO INTEGRATION AGREEMENT	12180 MULLINIUM DRIVE LOS ANGELES CA 90094 USA
4)	GLANBIA PERFORMANCE NUTRITION (NA), INC.	PRIVATE LABEL PURCHASE AGREEMENT	3500 LACEY RD DOWNERS GROVE IL 60515 USA
5)	GLANBIA PERFORMANCE NUTRITION (NA), INC.	PREFERRED PROGRAM AGREEMENT	3500 LACEY RD DOWNERS GROVE IL 60515 USA
6)	HEE MOON KIM, GENERAL DIRECTOR C/O DONGWON F&B VIETNAM COMPANY LIMITED	OMNIBUS AGREEMENT - VIETNAM	1521, 15 FLOOR, PEARL PLAZA BUILDING, 561A DIEN BIEN PHU ST., WARD 2, BINH THANH DIST., HO CHI MINH CITY, VIETNAM
7)	HEE MOON KIM, GENERAL DIRECTOR C/O DONGWON F&B VIETNAM COMPANY LIMITED	DEVELOPMENT AGREEMENT - VIETNAM	1521, 15 FLOOR, PEARL PLAZA BUILDING, 561A DIEN BIEN PHU ST., WARD 2, BINH THANH DIST., HO CHI MINH CITY, VIETNAM
8)	HEE MOON KIM, GENERAL DIRECTOR C/O DONGWON F&B VIETNAM COMPANY LIMITED	SWS DEVELOPMENT AGREEMENT - VIETNAM	1521, 15 FLOOR, PEARL PLAZA BUILDING, 561A DIEN BIEN PHU ST., WARD 2, BINH THANH DIST., HO CHI MINH CITY, VIETNAM
9)	HEE MOON KIM, GENERAL DIRECTOR C/O DONGWON F&B VIETNAM COMPANY LIMITED	DISTRIBUTION AGREEMENT - VIETNAM	1521, 15 FLOOR, PEARL PLAZA BUILDING, 561A DIEN BIEN PHU ST., WARD 2, BINH THANH DIST., HO CHI MINH CITY, VIETNAM
10)	HUA SHAN CHEN AND HONG XIN LUO	FRANCHISE AGREEMENT FOR STORE - 6096	602 39TH STREET #101 BROOKLYN NY 11232 USA
11)	JAGJEET S. DOSANJH	FRANCHISE AGREEMENT FOR STORE - 7657	5342 ROEDING ROAD HUGHSON CA 95326
12)	JAMEISON LABORATORIES LTD, WINDSOR RESEARCH LABORATORIES, INC & NUTRICORP INTERNATIONAL	QUALITY AGREEMENT	4025 RHODES DRIVE WINDSOR ON N8W5B5 CANADA
13)	JAVAD BILLOO	FRANCHISE AGREEMENT FOR STORE - 2267	12242 CANYON HILL AVENUE SYLMAR CA 91342 USA
14)	MELBA E. NOVILLO	FRANCHISE AGREEMENT FOR STORE - 6648	103 CHELSEA WAY BRIDGEWATER NJ 8807 USA
15)	NATURE'S BEST DBA ISOPURE	PURCHASING AGREEMENT - ISOPURE BRAND AGREEMENT	3500 LACEY RD SUITE 1200 DOWNERS GROVE IL 60515 USA
16)	OPTIMUM NUTRITION	PURCHASING AGREEMENT - OPTIMUM BRAND AGREEMENT	3500 LACEY RD DOWNERS GROVE IL 60515 USA

	Counterparty	Contract Type / Name	Address
17)	ORACLE DATABASE DBA DYNAMIC NETWORK SERVICES, INC.	MASTER SERVICE LEVEL AGREEMENT	1230 ELM STREET, 5TH FLOOR MANCHESTER, NH 03101
18)	PAM VIAR	FRANCHISE AGREEMENT FOR STORE - 5410	3606 APPLING LAKE DRIVE BARTLETT TN 38133 USA
19)	SALESFORCE.COM, INC.	INFORMATION TECHNOLOGY	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
20)	SALESFORCE.COM, INC.	INFORMATION TECHNOLOGY	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
21)	SALESFORCE.COM, INC.	PROGRAMMATIC & CAMPAIGN OPERATIONS SERVICES - MARKETING	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
22)	SALESFORCE.COM, INC.	IT	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
23)	SALESFORCE.COM, INC.	ECOMMERCE OPERATIONS SSO SERVICE CLOUD CHANEL STATEMENT OF WORK CONTRACT	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
24)	SALESFORCE.COM, INC.	OPERATIONS - REALM (SALESFORCE CLOUD)	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
25)	SALESFORCE.COM, INC.	MARKETING	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
26)	SALESFORCE.COM, INC.	ECOMMERCE OPERATIONS	THE LANDMARK ONE MARKET SUITE 300 SAN FRANCISCO CA 94105 USA
27)	THINKTHIN LLC	BRAND AGREEMENT	3500 LACEY RD DOWNERS GROVE IL 60515 USA

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED Court File No.
CV-20-00642970-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF VITAMIN OLDSCO HOLDINGS,
INC. et al.

APPLICATION OF VITAMIN OLDSCO HOLDINGS, INC. UNDER SECTION 46 OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

AFFIDAVIT OF MICHAEL NOEL
(affirmed October 29, 2020)

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