

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

IN RE:

SGR WINDDOWN, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 19-11973 (MFW)

(Jointly Administered)

D.I. 518, 563, and 568

**NOTICE OF FILING OF PLAN SUPPLEMENT
FOR PLAN OF REORGANIZATION FOR SGR WINDDOWN, INC.
AND AFFILIATED DEBTORS DATED FEBRUARY 24, 2020**

PLEASE TAKE NOTICE that on February 24, 2020, the above-captioned debtors and debtors in possession (the “Debtors”) filed the Debtors’ Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code [D.I. 518] (the “Plan”) and the Disclosure Statement for the Plan [Docket No. 517] (as subsequently revised, the “Disclosure Statement”).

PLEASE TAKE FURTHER NOTICE that the Plan and Disclosure Statement contemplate the submission of certain documents (or forms thereof), schedules, and exhibits to the Plan. in advance of the hearing on confirmation of the Plan (the “Confirmation Hearing”).

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file the following Plan Supplement documents:

- Exhibit A - Amended and Restated Certificate of Incorporation of SGR Winddown, Inc.
- Exhibit B - Amended and Restated ByLaws of SGR Winddown, Inc.
- Exhibit C - Feasibility Analysis
- Exhibit D - Executory Contracts and Leases to be Assumed

PLEASE TAKE FURTHER NOTICE that the forms of the documents contained in the Plan Supplement are integral to, and are considered part of, the Plan. If the Plan is confirmed, the documents contained in the Plan Supplement will be approved by the Bankruptcy Court pursuant to the order confirming the Plan.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right, subject to the terms and conditions set forth in the Plan, to alter, amend, modify, or supplement any document in the Plan Supplement; provided, if any document in the Plan Supplement is altered, amended, the Debtors’ will provide notice of such filing.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian Revenue Agency, as applicable are (1) SGR Winddown, Inc. (4356), (2) SGR Winddown International, LLC (1254) and (3) SGR Canada Winddown Legacy Ltd. (4480). The location of the Debtors' corporate headquarters is 4712 Admiralty Way #552, Marina Del Rey, CA 90292.

PLEASE TAKE FURTHER NOTICE that the Plan Supplement, Plan, and Disclosure Statement may be viewed for free at the website of the Debtors' claims and noticing agent, BMG <https://bmgroup.com/sugarfina> or for a fee on the Bankruptcy Court's website at <http://www.deb.uscourts.gov>.

PLEASE TAKE FURTHER NOTICE that the Confirmation Hearing will be held before the Honorable Mary F. Walrath, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware. **PLEASE NOTE THAT**, due to COVID-19, it is unclear at this time whether the Confirmation Hearing will be held in person or through telephonic and/or video appearance. All parties are should contact the Debtors' counsel or check with the Debtors' website at <https://bmgroup.com/sugarfina> on or prior to May 8, 2020 to check whether the hearing will go forward in person or by remote means. Please be advised that the Confirmation Hearing may be continued from time to time by the Bankruptcy Court without further notice.

April 24, 2020

MORRIS JAMES LLP

/s/ Jeffrey R. Waxman
Jeffrey R. Waxman (No. 4159)
Eric J. Monzo (No. 5214)
Brya M. Keilson (No. 4643)
500 Delaware Avenue, Suite 1500
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-and-

SHULMAN BASTIAN FRIEDMAN & BUI
Alan J. Friedman, Esquire
100 Spectrum Center Drive, Suite 600
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Counsel to the Debtors and Debtors in Possession

EXHIBIT A

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
SGR WINDDOWN, INC.**

SGR Winddown, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the “**Corporation**”),

DOES HEREBY CERTIFY:

FIRST: That the name of the Corporation is SGR Winddown, Inc.

SECOND: That the Corporation’s original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on September 29, 2016 under the name Sugarfina, Inc.

THIRD: That the Corporation has duly adopted resolutions proposing to amend and restate the Certificate of Incorporation, and that said amendment and restatement was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware (the “**General Corporation Law**”). This Amended and Restated Certificate of Incorporation amends and restates the provisions of the existing Amended and Restated Certificate of Incorporation of the Corporation.

FOURTH: That the text of the Amended and Restated Certificate of Incorporation is hereby restated and further amended to read in its entirety as set forth in Exhibit A attached hereto.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer, this ___th day of May, 2020.

SGR WINDDOWN, INC.

By: /s/
Lance Miller, Chief Restructuring Officer

EXHIBIT A

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

SGR WINDDOWN, INC.

FIRST: The name of this corporation is SGR Winddown, Inc. (the “**Corporation**”).

SECOND: The address of the registered office of the Corporation in the State of Delaware is to be located at [_____]. The registered agent in charge thereof is [_____].

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the “**General Corporation Law**”).

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is 1,000 shares of Common Stock, \$0.00001 par value per share (“**Common Stock**”).

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1. Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares of Common Stock held by each such holder.

2.2. Deemed Liquidation Events.

2.2.1. Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**”:

- (a) a merger, consolidation or reorganization in which
- (i) the Corporation is a constituent party, or

- (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger, consolidation or reorganization involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation; or

(c) the Corporation's Board of Directors does not have at least one (1) Director, for a period of at least five (5) continuous calendar days.

2.2.2. Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board.

3. Directors.

3.1. Initial Director. Effective with the filing of this Amended and Restated Certificate of Incorporation, the Director shall be Lance E. Miller.

3.2. Removal of Directors. Any member of the Board of Directors for the Corporation may be removed by, and only by, the affirmative vote of the holders of the requisite shares of the Common Stock, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders.

FIFTH: Subject to any additional vote required by this Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

SIXTH: Subject to the terms of Article Fourth and any additional vote required by this Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot and may be evidenced via written consent.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws of the Corporation.

NINTH: To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended. Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

TENTH: The following indemnification provisions shall apply to the persons enumerated below.

1. Right to Indemnification of Directors and Officers. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an “**Indemnified Person**”) who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “**Proceeding**”), by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys’ fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 3 of this Article Tenth, the Corporation shall be required to indemnify an Indemnified Person in connection with a Proceeding (or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding (or part thereof) by the Indemnified Person was authorized in advance by the Board.

2. Prepayment of Expenses of Directors and Officers. The Corporation shall pay the expenses (including attorneys’ fees) incurred by an Indemnified Person in defending any Proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Indemnified Person to repay all amounts advanced if it should be ultimately determined that the Indemnified Person is not entitled to be indemnified under this Article Tenth or otherwise.

3. Claims by Directors and Officers. If a claim for indemnification or advancement of expenses under this Article Tenth is not paid in full within 30 days after a written claim therefor by the Indemnified Person has been received by the Corporation, the Indemnified Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Indemnified Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

4. Indemnification of Employees and Agents. The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for whom such person is the legal

representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorney's fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification of persons who are non-director or officers, employees or agents shall be made in such manner as is determined by the Board in its sole discretion. Notwithstanding the foregoing sentence, the Corporation shall not be required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board.

5. Advancement of Expenses of Employees and Agents. The Corporation shall pay the expenses (including attorney's fees) incurred by an employee or agent in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board.

6. Non-Exclusivity of Rights. The rights conferred on any person by this Article Tenth shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, any provision of this Certificate of Incorporation, the Bylaws of the Corporation, a vote of stockholders or otherwise.

7. Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer or employee of another Corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise shall be reduced by any amount such person may collect as indemnification from such other Corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise.

8. Insurance. The Board may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance: (a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article Tenth; and (b) to indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Tenth.

9. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person's heirs, executors and administrators.

ELEVENTH: The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "**Excluded Opportunity**" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, any director or officer of the Corporation (each, a "**Covered Person**"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director or officer of the Corporation.

EXHIBIT B

AMENDED AND RESTATED

BYLAWS OF

SGR Winddown, Inc. (the “Corporation”)

Article I - Stockholders

1. Annual Meeting. The annual meeting of stockholders shall be held for the election of directors each year at such place, date and time as shall be designated by the Board of Directors (the “Board”). Any other proper business may be transacted at the annual meeting. If no date for the annual meeting is established or said meeting is not held on the date established as provided above, a special meeting in lieu thereof may be held or there may be action by written consent of the stockholders on matters to be voted on at the annual meeting, and such special meeting or written consent shall have for the purposes of these Bylaws or otherwise all the force and effect of an annual meeting. The annual meeting may be held via remote communication (e.g., teleconference, video conference).

2. Special Meetings. Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the Chief Executive Officer, if one is elected, or, if there is no Chief Executive Officer, a Director, or at the request in writing of stockholders owning greater than fifty percent (50%) in amount of the entire capital stock of the Corporation issued and outstanding and entitled to vote, but such special meetings may not be called by any other person or persons. Such request shall state the place, date, hour and purpose or purposes of the proposed meeting. Only the purposes specified in the notice of special meeting shall be considered or dealt with at such special meeting. Special meetings may be held via remote communication (e.g., teleconference, video conference).

3. Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, a notice stating the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present and vote at such meeting, and, in the case of a special meeting, the purpose or purposes of the meeting, shall be given by the Secretary (or other person authorized by these Bylaws or by law) not less than ten (10) nor more than sixty (60) days before the meeting to each stockholder entitled to vote thereat and to each stockholder who, under the Certificate of Incorporation or under these Bylaws is entitled to such notice. If mailed, notice is given when deposited in the mail, postage prepaid, directed to such stockholder at such stockholder’s address as it appears in the records of the Corporation. Without limiting the manner by which notice otherwise may be effectively given to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

If a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, and the means of remote communications, if any, by which

stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken, except that if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

4. Quorum. Unless otherwise required by law, the holders of a majority in interest of all stock issued, outstanding and entitled to vote on the matter at issue, present in person or represented by proxy, shall constitute a quorum. Any meeting may be adjourned from time to time by a majority of the votes properly cast upon the question, whether or not a quorum is present. The stockholders present at a duly constituted meeting may continue to transact business until adjournment notwithstanding the withdrawal of enough stockholders to reduce the voting shares below a quorum.

5. Voting and Proxies. Except as otherwise provided by the Certificate of Incorporation or by law, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of stock held by such stockholder which has voting power upon the matter in question. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by either written proxy or by a transmission permitted by law, but no proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period or is irrevocable and coupled with an interest. Proxies shall be filed with the Secretary of the meeting, or of any adjournment thereof. Except as otherwise limited therein, proxies shall entitle the persons authorized thereby to vote at any adjournment of such meeting.

6. Action at Meeting. When a quorum is present, any matter before the meeting shall be decided by vote of the holders of a majority of the shares of stock voting on such matter except where a larger vote is required by law, by the Certificate of Incorporation or by these Bylaws. The Corporation shall not directly or indirectly vote any share of its own stock; provided, however, that the Corporation may vote shares which it holds in a fiduciary capacity to the extent permitted by law.

7. Presiding Officer. Meetings of stockholders shall be presided over by the Chief Executive Officer. The Board shall have the authority to appoint a temporary presiding officer to serve at any meeting of the stockholders if the Chief Executive Officer is unable to do so for any reason.

8. Conduct of Meetings. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the presiding officer of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the presiding officer of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board or the presiding officer of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

9. Action without a Meeting. Unless otherwise explicitly prohibited by the Certificate of Incorporation, any action required or permitted by law to be taken at any annual or special meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or

consents in writing, setting forth the action so taken, shall be signed by (i) the holders of outstanding stock and/or (ii) the proxyholder(s) of the holders of outstanding stock, having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office, by hand or by certified mail, return receipt requested, or to the Corporation's principal place of business or to the officer having custody of the minute book, or if specified on such consent, by delivery to an authorized officer via electronic mail or facsimile. Every written consent shall bear the date of signature and no written consent shall be effective unless, within sixty (60) days of the earliest dated consent delivered pursuant to these Bylaws, written consents signed by a sufficient number of stockholders entitled to take action are delivered to the Corporation in the manner set forth in these Bylaws. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing, however, for the avoidance of doubt, such other stockholders need not be informed of the requisite stockholders' intent to take such corporate action in advance.

10. Minutes of Meetings. All meetings and any actions taken or authorized at such meetings will be recorded in minutes of proceedings, which shall be prepared by secretary of the meeting within a reasonable time after adjournment of each meeting.

Article II - Directors

1. Powers. The business of the Corporation shall be managed by or under the direction of a Board who may exercise all the powers of the Corporation except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws.

2. Number and Qualification. Unless otherwise provided in the Certificate of Incorporation or in these Bylaws, the number of directors which shall constitute the whole board shall be one (1). Directors need not be stockholders, officers or employees of the Corporation.

3. Vacancies. To the extent permitted by law, vacancies in the Board resulting from the removal of a director and/or the increase or reduction in the number of the directors shall be effected in accordance with the Certificate of Incorporation.

4. Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws, directors shall hold office until their successors are elected and qualified or until their earlier death, permanent and total disability (as such term is defined in Section 22(e) of the Internal Revenue Code of 1986, as amended), resignation or removal. Any director may resign at any time upon notice given in writing or by electronic transmission to the Corporation. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

5. Removal. To the extent permitted by law or the Certificate of Incorporation, a director may be removed from office with or without cause by vote of the holders of a majority of the shares of stock entitled to vote in the election of such director, or, if such director was appointed by the Board, by a majority of the total number of directors (excluding such director subject to removal).

6. Meetings. Meetings of the Board may be held at such time, date and place as specified in the notice of meeting. Special meetings of the Board may be called, orally or in writing, by the Chief Executive Officer, if one is elected, or, if there is no Chief Executive Officer, the President, or by two or more directors, designating the time, date and place thereof. Directors may participate in meetings of the Board by means of conference telephone or other communications equipment by means of which all directors participating in the meeting can hear each other, and participation in a meeting in accordance herewith shall constitute presence in person at such meeting.

7. Notice of Meetings. Notice of the time, date and place of all meetings of the Board shall be given to each director by the Secretary, or Assistant Secretary, or in case of the death, absence, incapacity or refusal of such persons, by the officer or one of the directors calling the meeting. Notice shall be given to each director in person, by telephone, or by facsimile, electronic mail or other form of electronic communications, sent to such director's business or home or electronic address at least twenty-four (24) hours in advance of the meeting, or by written notice mailed to such director's business or home address at seventy-two (72) hours in advance of the meeting.

8. Action at Meeting. At any meeting of the Board at which a quorum is present, unless otherwise provided in the following sentence, a majority of the directors present may take any action on behalf of the Board, unless a larger number is required by law, by the Certificate of Incorporation or by these Bylaws.

9. Action by Consent. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all members of the Board consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the records of the meetings of the Board. Such filing shall be in paper form if the minutes and resolutions of the Board are maintained in paper form and shall be in electronic form if the minutes and resolutions of the Board are maintained in electronic form.

Article III - Officers

1. Enumeration. The officers of the Corporation may consist of a President, a Chief Executive Officer (the "Officer"), a Chief Financial Officer, and a Secretary, each as the Board may determine.

2. Election. Officers may be elected by the Board at any time and from time to time, at a meeting or via written consent. Beginning with the date hereof, Lance Miller shall be appointed as the Corporation's Officer. The initial compensation for the Officer will be \$5,000 per month, subject to further adjustments, plus all reasonable expenses.

3. Qualification. No officer need be a stockholder or director. Any two or more offices may be held by the same person. Any officer may be required by the Board to give bond for the faithful performance of such officer's duties in such amount and with such sureties as the Board may determine.

4. Tenure. Except as otherwise provided by the Certificate of Incorporation or by these Bylaws, each officer shall hold office until such officer's successor is elected and qualified or until such officer's earlier death, permanent and total disability, resignation or removal. Any officer may resign by delivering his or her written resignation to the Corporation, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

5. Removal. The Board may remove any officer with or without cause by a vote of a majority of the directors then in office.

6. Vacancies. Any vacancy in any office may be filled by the Board.

7. Chief Executive Officer. The Chief Executive Officer, if one is elected, shall have such powers and shall perform such duties as the Board may from time to time designate.

8. President. The President, if one is elected, shall have such powers and shall perform such duties as the Board may from time to time designate.

9. Chief Financial Officer. The Chief Financial Officer shall, subject to the direction of the Board, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account. The Chief Financial Officer shall have custody of all funds, securities, and valuable documents of the Corporation, except as the Board may otherwise provide. The Chief Financial Officer shall have such other powers and shall perform such duties as the Board may from time to time designate.

10. Secretary. The Secretary shall record the proceedings of all meetings of the stockholders and the Board (including committees of the Board) in books kept for that purpose. In the absence of the Secretary from any such meeting an Assistant Secretary, or if such person is absent, a temporary secretary chosen at the meeting, shall record the proceedings thereof. The Secretary shall have charge of the stock ledger (which may, however, be kept by any transfer or other agent of the Corporation) and shall have such other duties and powers as may be designated from time to time by the Board.

11. Other Powers and Duties. Subject to these Bylaws, each officer shall have in addition to the duties and powers specifically set forth in these Bylaws, such duties and powers as are customarily incident to such officer's office, and such duties and powers as may be designated from time to time by the Board.

Article IV - Capital Stock

1. Certificates of Stock. Unless the Board determines otherwise, all classes or series of its stock shall be uncertificated shares.

2. Transfers. Transfers of record of shares of stock of the Corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, who shall furnish proper evidence of authority to transfer, and in the case of stock represented by a certificate, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed.

3. Record Holders. Except as may otherwise be required by law, by the Certificate of Incorporation or by these Bylaws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect thereto, regardless of any transfer, pledge or other disposition of such stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these Bylaws. It shall be the duty of each stockholder to notify the Corporation of such stockholder's post office address.

4. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not precede the date on which it is established, and which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, more than ten (10) days after the date on which the record date for stockholder consent without a meeting is established, nor more than sixty (60) days prior to any other action. In such case only stockholders of record on such record date shall be so entitled notwithstanding any transfer of stock on the books of the Corporation after the record date.

If no record date is fixed, (a) the record date for determining stockholders entitled to notice of or to

vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, (b) the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is necessary, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office, to its principal place of business, or to an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded, and (c) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

Article V - Miscellaneous Provisions

1. Fiscal Year. Except as otherwise determined by the Board, the fiscal year of the Corporation shall end on December 31 of each year.
2. Seal. The Board shall have power to adopt and alter the seal of the Corporation.
3. Execution of Instruments. Subject to any limitations which may be set forth in a resolution of the Board, all deeds, leases, transfers, contracts, bonds, notes and other obligations to be entered into by the Corporation in the ordinary course of its business without director action may be executed on behalf of the Corporation by, the Chief Executive Officer, a President, or by any other officer, employee or agent of the Corporation as the Board may authorize.
4. Voting of Securities. Unless the Board otherwise provides, the Chief Executive Officer, a President, or the Chief Financial Officer may waive notice of and act on behalf of this Corporation, or appoint another person or persons to act as proxy or attorney in fact for this Corporation with or without discretionary power and/or power of substitution, at any meeting of stockholders or stockholders of any other corporation or organization, any of whose securities are held by this Corporation.
5. Resident Agent. Any of the Board, the Secretary or the Chief Executive Officer may appoint a resident agent upon whom legal process may be served in any action or proceeding against the Corporation.
6. Corporate Records. The original or attested copies of the Certificate of Incorporation, Bylaws and records of all meetings of the incorporators, stockholders and the Board and the stock and transfer records, which shall contain the names of all stockholders, their record addresses and the amount of stock held by each, shall be kept at the principal office of the Corporation, at the office of its counsel, or at an office of its transfer agent.
7. Certificate of Incorporation. All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended and in effect from time to time.
8. Amendments. These Bylaws may be altered, amended or repealed, and new Bylaws may be adopted, by the stockholders or by the Board; provided, that the Board may not alter, amend or repeal any provision of these Bylaws which by law, by the Certificate of Incorporation or by these Bylaws requires action by the stockholders.
9. Waiver of Notice. Whenever notice is required to be given under any provision of these Bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall

be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting needs to be specified in any written waiver or any waiver by electronic transmission.

10. Conflicts. Notwithstanding anything to the contrary in these Bylaws, in the event of any conflict between these Bylaws, on the one hand, and any stockholders agreement, investors rights agreement, voting agreement, or any other agreement heretofore or hereinafter entered into between the Corporation and holders of capital stock of the Corporation with respect to the governance or operation of the Corporation, including, without limitation, that certain Stockholders' Agreement dated as of September 28, 2016 (collectively, and as each of the same may be amended from time to time, the "Stockholders' Agreements"), on the other hand, the Stockholders' Agreements shall govern and control.

11. Indemnification. The Corporation shall, to the fullest extent authorized under law, as the same may be amended and supplemented from time to time, indemnify any director or officer made, or threatened to be made, a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of being a director or officer; provided, however, that the Corporation shall indemnify any such agent in connection with a proceeding initiated by such agent only if such proceeding was authorized by the Board. The indemnification provided for in this section shall: (i) not be deemed exclusive of any other rights to which those indemnified may otherwise be entitled, both as to action in their official capacities and as to action in another capacity while holding such office (including, without limitation, pursuant to an indemnification agreement or similar document executed by and between the Corporation and such director or officer); (ii) continue as to a person who has ceased to be a director or officer; and (iii) inure to the benefit of the heirs, executors and administrators of such director or officer. The Corporation's obligation to provide indemnification under this section shall be offset to the extent of any other source of indemnification or any otherwise applicable insurance coverage under a policy maintained by the Corporation or any other person. Notwithstanding the foregoing, to the extent that any provision of the Certificate of Incorporation, agreement, or vote of the stockholders or disinterested directors is inconsistent with these Bylaws, such provision, agreement, or vote shall take precedence.

CERTIFICATE OF SECRETARY

The undersigned, Secretary of SGR Winddown, Inc., a Delaware corporation, hereby certifies that the foregoing is a full, true and correct copy of the Amended and Restated Bylaws of said corporation, with all amendments to date of this Certificate.

WITNESS the signature of the undersigned as of _____, 2020.

Lance Miller, Secretary

EXHIBIT C

SGR Winddown, Inc.
Cash Flow Projection Feasibility Analysis

		Solicitation & Confirmation		Eff Date	Winddown -->		
Week Ending	Notes	Act/Proj Apr-20	Proj May-20	Proj 5/31/20	Proj Dec-20	Proj Dec-21	Total
					(7 months)	(12 months)	
Cash Receipts							
Other	[1]	0	0	0	0	0	0
Total Receipts		0	0	0	0	0	0
Operating Disbursements							
Current Accounts Payable	[2]	(68,105)	0	0	0	0	(68,105)
Income Tax Return Prep	[3]	(30,030)	0	0	0	(60,061)	(90,091)
Income Taxes Owed	[4]	(30,000)	0	0	0	0	(30,000)
CRO & Controller	[5]	(38,700)	(29,600)	0	(45,500)	(78,000)	(191,800)
D&O Insurance	[6]	(22,824)	(70,000)	0	0	0	(92,824)
Other G&A	[7]	(5,715)	(1,000)	0	(7,000)	(12,000)	(25,715)
Total Operating Disbursements		(195,374)	(100,600)	0	(52,500)	(150,061)	(498,535)
Operating Cash Flows		(195,374)	(100,600)	0	(52,500)	(150,061)	(498,535)
Effective Date Payments							
<u>Unclassified Claims (per the Plan)</u>							
DIP Success Fee	[8]	0	0	0	0	0	0
CC Liquidated DIP Expenses	[9]	0	0	(70,817)	0	0	(70,817)
Admin & Priority Claim Reserve	[10]	0	0	0	0	0	0
CC Liq. Substantial Contrib. Claim	[11]	0	0	0	0	0	0
Estimated 503(b)(9) Claims	[12]	0	0	(100,000)	0	0	(100,000)
Priority Tax Claims	[13]	0	0	(363,369)	0	0	(363,369)
Ordinary Course Liabilities	[14]	0	0	0	0	0	0
<u>Classified Claims (per the Plan)</u>							
Serene Facility Claim (Class 1)	[15]	0	0	0	0	0	0
GS Secured Facility Claim (Class 2)	[16]	0	0	(1,614,113)	0	(50,000)	(1,664,113)
Other Secured Claims (Class 3)	[17]	0	0	(30,995)	0	0	(30,995)
Other Priority Claims (Class 4)	[18]	0	0	0	0	0	0
Allowed GUC Claims (Class 5)	[19]	0	0	(100,000)	0	0	(100,000)
Total Effective Date Payments		0	0	(2,279,294)	0	(50,000)	(2,329,294)
Restructuring Disbursements							
Ch 11 Prof - Feb Fee Applications	[20]	(245,923)	0	0	0	0	(245,923)
Ch 11 Prof - Mar-Apr Fees, net of Holdbacks	[20]	(115,175)	(139,000)	0	0	0	(254,175)
Ch 11 Prof - Mar-Apr Holdbacks	[20]	0	0	(55,531)	0	0	(55,531)
Ch 11 Prof - May Fees, net of Retainers	[20]	0	0	(42,260)	0	0	(42,260)
Post-Confirmation Professionals	[21]	0	0	0	(40,000)	0	(40,000)
U.S. Trustee Fees	[22]	(195,352)	(7,961)	(23,771)	(3,575)	(5,200)	(235,859)
Restructuring Disbursements		(556,450)	(146,961)	(121,562)	(43,575)	(5,200)	(873,748)
Net Cash Flows		(751,824)	(247,561)	(2,400,856)	(96,075)	(205,261)	(3,701,576)
Beginning Cash	[23]	3,701,576	2,949,752	2,702,192	301,336	205,261	3,701,576
Ending Cash		2,949,752	2,702,192	301,336	205,261	0	0

Notes & Significant Assumptions to Cash Flow Projection:

Analysis anticipates an Effective Date of May 31, 2020, with all activity substantially completed by the end of 2021. Key items of note include:

- [1] - No cash receipts are currently anticipated. Cash needed for the continued operations of the Reorganized Debtor will be left in the estate following the Effective Date.
- [2] - As of Mar 31, 2020, there was approximately \$61k of post-petition AP owed by the US operations and another \$7k owed by the Canadian operations.
- [3] - Includes estimated fees to prepare annual income tax returns for 2019, 2020, and 2021 (incl US and Canada).
- [4] - Includes estimated amounts owed for 2019 income taxes owed in Canada (\$30k). It is expected that there will be no income taxes owed for 2020 onward due to existing NOLs.
- [5] - Includes ongoing payroll for the CRO and Controller. The CRO is projected at \$25k / month through May and thereafter at \$5k / month. The Controller is projected at \$4.6k / month through May and thereafter at \$1.5k / month to support the CRO and ensure final tax returns are properly filed. April also includes an estimated \$9.1k for remaining 2019 payroll.
- [6] - Includes amounts paid to date for Apr; ongoing D&O insurance is expected to cost \$20k / month through May plus a new post-confirmation policy at \$50k.
- [7] - It is expected that the Debtors will continue to incur miscellaneous G&A expenses (eg, any phone, utilities, travel, Quickbooks, etc); these are projected at actual April month-to-date spending and thereafter at \$1k / month through the projection period.
- [8] - Per the proposed Plan, the DIP Success Fee will be paid on the Effective Date and will reduce the amount owed on the GS Secured Facility Claim (see note [16]). Since this will effectively be paid from the recovery on Class #2, this amount is shown herein at \$0.
- [9] - Per the proposed Plan, amounts remaining on the Candy Cube Liquidated DIP Expenses will be paid on the Effective Date. These amounts are projected at \$71k based on the amounts that Candy Cube asserts to be outstanding for such expenses. These amounts remain subject to dispute.
- [10] - Per the proposed Plan, an amount will be set aside on the Effective Date to ensure the full payment of Administrative and Priority Claims. Since these amounts are otherwise projected to be paid elsewhere within this analysis, this amount is shown at \$0 herein and remains subject to further analysis.
- [11] - Per the proposed Plan, the Candy Cube Liquidated Substantial Contribution Claim will be paid on the Effective Date. This amount is estimated herein at \$0 because it is disputed and so remains subject to further analysis.
- [12] - Estimated 503(b)(9) Claims are currently projected at \$100k based on proofs of claim filed to date, and expectations regarding additional claims that may be filed and allowed. Note that the payment of other administrative claims such as Ordinary Course Liabilities and Ch 11 Professional Fees are projected elsewhere within this analysis.
- [13] - Per the proposed Plan, all Priority Claims will be paid on the Effective Date. These are currently estimated at \$363.4k for priority tax claims, which is based on an analysis of scheduled and filed claims.
- [14] - Per the proposed Plan, all Ordinary Course Liabilities are to be paid on the Effective Date. Since these amounts (eg, Current AP) are projected to be paid elsewhere within this analysis, this amount is shown at \$0 herein and remains subject to further analysis.
- [15] - Per the proposed Plan, the Serene Facility Claim is Class #1 and will be paid in full on the Effective Date. Nothing is currently owed on this claim and so it is projected herein at \$0.
- [16] - Per the proposed Plan, the GS Facility Claim is Class #2 and will be paid on the Effective Date. Payments to this class are projected herein in an amount sufficient to leave funds behind to enable the Debtors to cover all other Effective Date payments plus all projected winddown expenses through 2021 plus a holdback of \$50k, with all remaining available cash paid out to this class on the Effective Date. Any remaining cash held by the Reorganized Debtor at the end of the winddown period will be distributed at that time.
- [17] - Per the proposed Plan, Other Secured Claims are Class #3 and will be paid in full on the Effective Date. These are currently estimated at \$31.0k, which excludes the AFCCO Facility that is included in this analysis as D&O Insurance (see note [6]).
- [18] - Per the proposed Plan, Other Priority Claims are Class #4 and will be paid in full on the Effective Date. Nothing is believed to be owed for any such claims beyond the priority tax claims shown above (see note [13]), and so this is shown herein at \$0.
- [19] - Per the proposed Plan, Allowed General Unsecured Claims are Class #5 and will be paid on the Effective Date in the amount of \$100k. Additional recoveries are also possible to this class, including possible recoveries from Preserved Causes of Action, which are pending further analysis and so projected at \$0 herein.
- [20] - Ch. 11 Professional Fees are projected to be paid one month in arrears at 80% of fees and 100% of expenses, with all remaining amounts to be paid on the Effective Date. Unpaid amounts currently owed from February Fee Applications (including all holdbacks for fees through Feb) are projected to be paid during April. Outstanding retainers are projected to be applied and all remaining holdbacks are projected to be paid on the Effective Date, up to the previously agreed upon amount of \$1.3 million from January onward.
- [21] - Post-Confirmation Professionals include amounts for ongoing legal services to pursue potential preference and avoidance actions (estimated at \$25k in total) and tax services to assist with challenging potential tax claims (estimated at \$15k).
- [22] - UST Fees are projected to be paid quarterly at 1% of total disbursements, through and including the Effective Date, and thereafter based on the amount of projected disbursements. Per agreement with the UST, these fees are not to be charged on disbursements made to Sugarfina USA LLC.
- [23] - Beginning cash is based on the March 2020 MOR, and excludes amounts previously funded into a separate utilities deposit account (\$4k) that is not expected to be recoverable, as well as amounts anticipated to be owed to Newco (approx \$2k) for unwinding currently co-mingled credit card processing.

EXHIBIT D

List of Executory Contracts to Be Assumed

None