

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

In re:

SUGARFINA INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 19-11973 (MFW)

(Jointly Administered)

**AMENDED NOTICE OF ASSUMPTION AND CURE COST WITH RESPECT TO
EXECUTORY CONTRACTS OR UNEXPIRED LEASES POTENTIALLY TO BE
ASSUMED AND ASSIGNED IN CONNECTION WITH SALE OF DEBTORS' ASSETS**

PLEASE TAKE NOTICE THAT THIS AMENDED NOTICE OF ASSUMPTION AND CURE COST WITH RESPECT TO EXECUTORY CONTRACTS OR UNEXPIRED LEASES POTENTIALLY TO BE ASSUMED AND ASSIGNED IN CONNECTION WITH SALE OF DEBTORS' ASSETS (THE "AMENDED NOTICE OF ASSUMPTION AND ASSIGNMENT") AMENDS THE NOTICE OF ASSUMPTION AND ASSIGNMENT PREVIOUSLY SENT TO YOU. CHANGES ARE HIGHLIGHTED IN BOLD.

YOU ARE RECEIVING THIS AMENDED NOTICE OF ASSUMPTION AND ASSIGNMENT BECAUSE YOU MAY BE A COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE WITH ONE OR MORE OF THE DEBTORS. PLEASE READ THIS NOTICE CAREFULLY AS YOUR RIGHTS MAY BE AFFECTED BY THE TRANSACTIONS DESCRIBED HEREIN

PLEASE TAKE NOTICE THAT:

1. The above-captioned debtors (the "Debtors") have entered into an Agreement (the "Agreement") with Sugarfina Acquisition Corp. (the "Stalking Horse Bidder") for the sale of substantially all of the Debtors' assets subject to a competitive bidding process. The *Order (A) Approving Bidding Procedures and Protections in Connection with a Sale of Substantially All of Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Interests; (B) Scheduling an Auction and Sale Hearing; (C) Approving the Form and Manner of Notice Thereof; (D) Approving Procedures for the Assumption and Assignment of Contracts and Leases; and (E)*

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) Sugarfina, Inc., a Delaware corporation (4356), (2) Sugarfina International, LLC, a Delaware limited liability company (1254) and (3) Sugarfina (Canada), Ltd. (4480). The location of the Debtors' corporate headquarters is 1700 E. Walnut Ave., 5th Floor, El Segundo, California 90245.

Granting Related Relief, expected to be entered by the United States Bankruptcy Court for the District of Delaware (the “Court”), sets forth procedures for the competitive bidding and sale process contemplated in the Agreement (the “Bidding Procedures Order”).²

2. The Debtors hereby provide notice that they may assume and assign the prepetition executory contracts or unexpired leases listed on **Exhibit A** hereto (the “Scheduled Contracts”) to the Stalking Horse Bidder or other Successful Bidder, as the case may be. The inclusion of any executory contract or unexpired lease on **Exhibit A** does not require or guarantee that such executory contract or unexpired lease will be assumed or assigned, or that such contract is executory or such lease is unexpired, and all rights of the Debtors and the Stalking Horse Bidder with respect thereto are reserved.

3. Pursuant to the terms of the Agreement (or any asset purchase agreement that the Debtors may enter into with a Successful Bidder), the Debtors may seek to assume and assign one or more of the Scheduled Contracts to the Stalking Horse Bidder or other Successful Bidder, as the case may be, subject to approval at the hearing to be held at **10:30 a.m. (prevailing Eastern time), on October 24, 2019** (the “Sale Hearing”), before the Court. Set forth on **Exhibit A** are any and all amounts, costs, or expenses that the Debtors believe must be paid or actions or obligations that must be performed or satisfied pursuant to the Bankruptcy Code to effectuate the assumption by the applicable Debtor, and the assignment to the Stalking Horse Bidder or other Successful Bidder, of the Scheduled Contracts (the “Cure Cost”) as part of any assumption and assignment.

4. No later than October 11, 2019, the Stalking Horse Bidder shall provide the Debtors with information regarding adequate assurance of future performance for Contract Counterparties if the Stalking Horse Bidder is the assignee of the Scheduled Contracts, and, no later than the Bid Deadline, the Debtors shall receive information regarding adequate assurance of future performance from Qualified Bidders (other than the Stalking Horse Bidder) if such Qualified Bidder proposes to be assigned certain Scheduled Contracts (collectively, the “Adequate Assurance Information”). Upon receiving the Adequate Assurance Information, and no later than 5:00 p.m. (ET) on October 11, 2019 for the Stalking Horse Bidder and 5:00 p.m. (ET) October 18, 2019 for Qualified Bidders, the Debtors shall provide electronic copies of the Adequate Assurance Information to the contract counterparties listed as to be assigned by a Qualified Bidder’s Scheduled Contracts list.

5. Objections, if any, to the assumption and assignment of a Scheduled Contract, the proposed Cure Cost, and/or the Adequate Assurance Information with respect to the Stalking Horse Bidder must be filed and served in accordance with the Bidding Procedures Order, and **actually received no later than 4:00 p.m. on October 21, 2019 (prevailing Eastern time). If the Stalking Horse Bidder is not the Successful Bidder objections with respect to the Adequate Assurance Information of the Successful Bidder may be filed and served in accordance with the Bidding Procedures Order or raised at the hearing on October 24, 2019 at 10:30 a.m. (prevailing Eastern time).**

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Bidding Procedures Order or the Agreement, as applicable.

6. If an objection to the Cure Cost is timely filed and received and the applicable entities are unable to consensually resolve the dispute, the amount to be paid under section 365 of the Bankruptcy Code, if any, with respect to such objection will be determined at a hearing to be requested by the Debtors, the Stalking Horse Bidder, or a Successful Bidder. At the Stalking Horse Bidder's or a Successful Bidder's discretion, the hearing regarding the Cure Cost may be continued until after the Closing Date.

7. If no Contract Objection for a Scheduled Contract is timely filed by any non-Debtor party to a Scheduled Contract and received in accordance with the Bidding Procedures Order, then: (a) such non-Debtor party will be deemed to have consented to the assumption and assignment of the Scheduled Contract; (b) such non-Debtor party will be forever barred and estopped from asserting any objection to the propriety or effectiveness of the assumption and assignment of the Scheduled Contract against the Debtors, the Stalking Horse Bidder, a Successful Bidder, any assignee of the Scheduled Contract, or the property of any of them; (c) the Cure Cost set forth on the Cure Notice for such Scheduled Contract shall be controlling and such non-Debtor party will be deemed to have consented thereto, notwithstanding anything to the contrary in the Scheduled Contract or otherwise; and (d) such non-Debtor party will be forever barred and estopped from objecting to the Cure Cost or asserting any claims, other than the Cure Costs, against the Debtors, the Stalking Horse Bidder, a Successful Bidder, any assignee of the Scheduled Contract, or the property of any of them.

8. In accordance with section 365 of the Bankruptcy Code, there is adequate assurance that the Cure Cost set forth on the Cure Notice will be paid in accordance with the terms of the Sale Order. If necessary, the Debtors will adduce facts at the hearing on any objection demonstrating the financial wherewithal of the Stalking Horse Bidder or a Successful Bidder and its willingness and ability to perform under the Scheduled Contracts to be assumed and assigned to it.

9. The Agreement (which is subject to further approval of the Court) provides that no later than three (3) days prior to the Closing Date, the Stalking Horse Bidder or other Successful Bidder shall deliver written notice to the Debtors, designating each contract or lease on **Exhibit A** as "assumed," "rejected," or "retained." Each contract or lease to be assumed by the Debtors and assigned to the Stalking Horse Bidder or other Successful Bidder will be so designated as "assumed" and is referred to herein as an "Assumed Contract"; each contract or lease to be rejected by the Debtors will be so designated as "rejected" and is referred to herein as a "Rejected Contract"; and each Contract or Lease that may become designated as "assumed" or "rejected" will be so designated as "Retained" and is referred to herein as a "Retained Contract." Prior to the Closing Date, the Debtors shall file a notice with the Court setting forth the Assumed Contracts, the Rejected Contracts, and the Retained Contracts. The order approving the sale shall provide that (a) Assumed Contracts or Retained Contracts that are later designated as Assumed Contracts are assumed by the Debtors and assigned to the Stalking Horse Bidder or a Successful Bidder effective upon the Debtors filing a notice with the Court and the counterparty being paid any Cure Costs (each, an "Assumption and Assignment Notice") and (b) the Rejected Contracts or Retained Contracts that are later designated as Rejected Contracts are rejected by the Debtors effective upon the Debtors filing a notice with the Court (each, a "Rejection Notice").

10. The Agreement (which is subject to further approval of the Court) provides that at Closing, a reserve account will be funded by the Stalking Horse Bidder or a Successful Bidder as the case may be in the aggregate amount of the Cure Costs for Retained Contracts (the “Reserve Account”). Establishment of the reserve account shall be the sole responsibility of the Stalking Horse Bidder or Successful Bidder, and shall not be a liability in any manner asserted against the Debtors. Between the Closing Date and the date that is ninety (90) days after Closing (the “Retained Contracts Period”), the Stalking Horse Bidder or other Successful Bidder who closes the sale with the Debtors may designate any Retained Contract as an Assumed Contract or a Rejected Contract. Any Retained Contract that is not designated as an Assumed Contract with the timely filing of an Assumption and Assignment Notice and is not designated as a Rejected Contract with the timely filing of a Rejection Notice on or before the expiration of the Retained Contracts Period shall automatically become a Rejected Contract immediately after the expiration of the Retained Contracts Period.

11. The Agreement (which is subject to further approval of the Court) provides that the Stalking Horse Bidder or other Successful Bidder shall retain the right to use all assets at any leased real property by the Debtors that is subject to a Retained Contract and to receive all the proceeds from any sale or use of goods and services at the leased real property during the Retained Contracts Period.

12. This notice is qualified in its entirety by the Bidding Procedures Order.

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Dated: October 14, 2019

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