

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

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| -----X | |
| | : |
| In re | : |
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| FUSION CONNECT, INC., et al., | : |
| | : |
| Debtors.¹ | : |
| | : |
| -----X | |

**NOTICE OF CURE AMOUNTS AND ASSUMPTION OR REJECTION
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF DEBTORS**

PLEASE TAKE NOTICE OF THE FOLLOWING:

On June 3, 2019, Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) commenced voluntary cases under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”).

On October 7, 2019, the Debtors filed the *Amended Disclosure Statement for Second Amended Joint Chapter 11 Plan of Fusion Connect, Inc., and its Subsidiary Debtors* (ECF No. 456) (as may be amended, modified, or supplemented, the “**Disclosure Statement**”) and the *Second Amended Joint Chapter 11 Plan of Fusion Connect, Inc., and its Subsidiary Debtors* (ECF No. 455) (as may be amended, modified, or supplemented, the “**Plan**”).² A hearing to consider confirmation of the Plan is currently scheduled for **December 5, 2019 at 10:00 a.m. (prevailing Eastern Time)** before the Bankruptcy Court (the “**Confirmation Hearing**”).

On October 30, 2019, the Debtors filed the *Notice of Cure Amounts and Assumption of Executory Contracts and Unexpired Leases* (ECF No. 511) (the “**Initial Assumption Notice**”).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corp. (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 210 Interstate North Parkway, Suite 300, Atlanta, Georgia 30339.

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

On November 12, 2019, the Debtors filed the *Supplemental Notice of Cure Amounts and Assumption of Executory Contracts and Unexpired Leases* (ECF No. 567) (the “**Supplemental Assumption Notice**”).

YOU ARE RECEIVING THIS NOTICE BECAUSE (I) YOU ARE A PARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT IS PROPOSED TO BE ASSUMED BY THE DEBTORS, AS REORGANIZED IN ACCORDANCE WITH THE PLAN, AND NOT INCLUDED ON THE ASSUMPTION NOTICE OR SUPPLEMENTAL ASSUMPTION NOTICE (THE “ASSUMED CONTRACTS”), (II) YOU ARE A PARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT WAS PREVIOUSLY LISTED ON EITHER THE INITIAL ASSUMPTION NOTICE OR THE SUPPLEMENTAL ASSUMPTION NOTICE, WHICH IS NOW PROPOSED TO BE REJECTED BY THE DEBTORS, AS REORGANIZED IN ACCORDANCE WITH THE PLAN (THE “REJECTED CONTRACTS”), OR (III) YOUR CONTRACT WAS PREVIOUSLY INCLUDED IN EITHER THE ASSUMPTION NOTICE OR THE SUPPLEMENTAL ASSUMPTION NOTICE, AND THE DEBTORS HAVE AMENDED THE CURE AMOUNT ASSOCIATED WITH SUCH CONTRACT(S).

A schedule of the Assumed Contracts is attached hereto as **Schedule 1** (the “**Assumed Contracts Schedule**”). A schedule of the Rejected Contracts is attached hereto as **Schedule 2** (the “**Rejected Contracts Schedule**”). The Debtors are also attaching as **Schedule 3** a list of contracts that were included on the Initial Assumption Notice or the Supplemental Assumption Notice with amended Cure Amounts (the “**Amended Cure Schedule**” and together with the Assumed Contracts Schedule, and the Rejected Contracts Schedule, the “**Schedules**”). The Cure Amounts set forth in **Schedule 3** represent the Debtors’ amended calculations of Cure Amounts due in connection with the certain contracts previously included on the Initial Assumption Notice or the Supplemental Assumption Notice, including any amendments, supplements, extensions, or exhibits thereto.

The Debtors’ calculation of the Cure Amount with respect to the Assumed Contracts are set forth on **Schedule 1** hereto. The Cure Amounts are the only amounts proposed to be paid upon the assumption of the Assumed Contracts. The Cure Amounts set forth in **Schedule 1** represent the Debtors’ calculation of Cure Amounts due in connection with the Assumed Contracts, including any amendments, supplements, extensions, or exhibits thereto.

The Debtors may amend the Schedules to add any Contracts thereto or remove any Contract therefrom until the Confirmation Hearing (as defined herein). For the avoidance of doubt, pursuant to section 8.1 of the Plan, any Contract that is not identified on the Assumed Contracts Schedule is deemed to be rejected by the Debtors, including those contracts identified in the Rejected Contracts Schedule.

The inclusion of any contract or lease in the Schedules shall not constitute or be deemed a determination or admission by the Debtors that such contract or other document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code (all rights with respect thereto being expressly reserved).

Except where specifically stated to the contrary, each executory contract or unexpired lease listed in the Schedules shall be deemed to include any amendments, addenda, exhibits, terms and conditions exhibits, schedules, statements of work, work orders, price lists and schedules and other

documents pertaining to the contract (collectively, the “**Related Contractual Documentation**”) and all orders, service orders, circuit orders, colocation orders, colocation requests, tenancy agreements and licenses and requests for interconnection placed by the Debtor and/or any Debtor affiliate under the contract (collectively, the “**Orders**”). Except where specifically stated to the contrary, the Cure Amount listed for an Assumed Contract is inclusive of all Cure Amounts owing under the Related Contractual Documentation and Orders related to the contract.

Notwithstanding the inclusion of any contract or lease on **Schedule 1** or **Schedule 3**, the Debtors are not obligated to assume any contract or lease identified on **Schedule 1** or **Schedule 3**. The Debtors may amend or modify the Schedules in their sole discretion until the Confirmation Hearing.

Objections

A. Cure Objections.

If you have any questions regarding this supplemental notice and/or a particular contract, please contact the Debtors’ advisors at fusioncontracts@fusionconnect.com.

Any objection to the proposed assumption, including the proposed Cure Amount identified on **Schedule 1** or **Schedule 3**, adequate assurance of future performance by the Reorganized Debtors, or rejection of such party’s Rejected Contract must:

- (a) be in writing;
- (b) state the name and address of the objecting party and the amount and nature of the claim or interest of such party;
- (c) state with particularity the basis and nature of any objection;
- (d) conform to the Bankruptcy Rules and the Local Rules;
- (e) be filed with the Court together with proof of service either (i) electronically or (ii) conventionally, as noted below:
 - (i) *Electronic Filing*: The filer must be an attorney in possession of passwords and logins to both PACER and the Bankruptcy Court’s Electronic Case Filing System; electronic filing must be in accordance with General Order M-399 (which can be found at <http://nysb.uscourts.gov>);
 - (ii) *Conventional Filing*: The filer must send the response or objection by mail, courier, or messenger to the Bankruptcy Court’s clerk at the following address: United States Bankruptcy Court, One Bowling Green, New York, NY 10004; the hard copy of the response or objection should be accompanied by a CD-ROM containing the response or objection in text-searchable portable document format (PDF); and

- (f) for any objections not filed electronically, such objections must be served upon the Objection Notice Parties listed below so as to be received **no later than 4:00 p.m. (prevailing Eastern Time) on December 4, 2019 at:**
- i. Counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Sunny Singh, Gaby Smith, and Phil DiDonato);
 - ii. William K. Harrington, U.S. Department of Justice, Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, New York 10014 (Attn: Richard Morrissey and Susan Arbeit);
 - iii. Counsel to the First Lien Lender Group, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible and Adam L. Shpeen); and
 - iv. Cooley LLP, 55 Hudson Yards, New York, New York 1001-2157 (Attn: Cathy Herschopf and Robert Winning).

IF A COUNTERPARTY FILES WITH THE BANKRUPTCY COURT A TIMELY CURE OBJECTION, THE DEBTORS MAY, IN THEIR SOLE DISCRETION, ADJOURN ANY SUCH CURE OBJECTION TO A DATE TO BE DETERMINED. THE DEBTORS WILL REQUEST THAT THE PROPOSED ASSUMPTION OF ANY ASSUMED CONTRACT BE EFFECTIVE UPON THE PLAN EFFECTIVE DATE NOTWITHSTANDING ANY PENDING OBJECTION ON THE BASIS OF CURE AMOUNT.

IF A COUNTERPARTY FAILS TO FILE WITH THE BANKRUPTCY COURT A TIMELY OBJECTION, THE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO THE ASSUMPTION, INCLUDING THE AMOUNT TO CURE ANY DEFAULT UNDER THE APPLICABLE ASSUMED CONTRACT OR ADEQUATE ASSURANCE OF FUTURE PERFORMANCE. THE CURE AMOUNTS SET FORTH ON EXHIBIT A HERETO SHALL BE CONTROLLING AND WILL BE THE ONLY AMOUNT NECESSARY TO CURE OUTSTANDING DEFAULTS UNDER THE APPLICABLE ASSUMED CONTRACT UNDER BANKRUPTCY CODE SECTION 365(B) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSUMED CONTRACT, OR ANY OTHER DOCUMENT, AND THE APPLICABLE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY ADDITIONAL CURE OR OTHER AMOUNTS WITH RESPECT TO SUCH ASSUMED CONTRACT AGAINST THE DEBTORS, OR THE PROPERTY OF ANY OF THEM. THE DEBTORS SHALL BE DEEMED TO HAVE PROVIDED ADEQUATE ASSURANCE OF FUTURE PERFORMANCE WITH RESPECT TO THE APPLICABLE ASSUMED CONTRACT IN ACCORDANCE WITH BANKRUPTCY CODE SECTION 365(B), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSUMED CONTRACT OR ANY OTHER DOCUMENT.

Additional Information

Copies of the Disclosure Statement and the Plan may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by the Debtors' claims and noticing agent, Prime Clerk LLC, located at <https://restructuring.primeclerk.com/fusion>.

Dated November 22, 2019

/s/ Sunny Singh
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
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Gary T. Holtzer
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*Attorneys for Debtors and
Debtors in Possession*

Schedule 1

Schedule of Assumed Contracts

Fusion Connect, Inc.
Schedule of Contract Assumptions and Cures
Balances as of June 3, 2019
(\$USD actual)

| | Contract ID | Debtor | Contract Counterparty | Contract Description | Cure Amount | Notes / Related Contract ID |
|-----|--------------------|----------------------------|------------------------------------|---|--------------------|--|
| (1) | CONTRACT19114 | Fusion Cloud Services, LLC | Hewlett Packard Financial Services | Master Lease Agreement | \$87,830.00 | Cure amount as agreed between parties November 2019. |
| (2) | CONTRACT19115 | Fusion Cloud Services, LLC | Hewlett Packard Financial Services | Master Lease and Financing Agreement Schedule No. 5353564880USA000001 | \$0.00 | See cure amount associated with CONTRACT19114. |
| (3) | CONTRACT19116 | Fusion Cloud Services, LLC | Hewlett Packard Financial Services | Master Lease And Financing Agreement Acceptance Certificate | \$0.00 | See cure amount associated with CONTRACT19114. |
| (4) | CONTRACT19117 | Fusion Cloud Services, LLC | Hewlett Packard Financial Services | Revised Master Lease and Financing Agreement Schedule No. 5353564880USA000001 | \$0.00 | See cure amount associated with CONTRACT19114. |
| (5) | CONTRACT19220 | Fusion Connect, Inc. | Kintyre | Service Order - Customer | \$8,802.74 | Cure amount as agreed between parties November 2019. |

Schedule 2

Schedule of Rejected Contracts

Fusion Connect, Inc.
Balances as of June 3, 2019
(\$USD actual)

| | Contract ID | Debtor | Contract Counterparty | Contract Description | Cure Amount | Notes / Related Contract ID |
|------|--------------------|----------------------------|--------------------------------|--|--------------------|---|
| (1) | CONTRACT19000 | Fusion Cloud Company LLC | AvePoint, Inc. | Purchase Agreement - Customer | \$0.00 | |
| (2) | CONTRACT559 | Fusion Cloud Services, LLC | Dell Financial Services L.L.C. | Lease Agreement - Lessee | \$401,274.66 | |
| (3) | CONTRACT1091 | Fusion LLC | Data Foundry, Inc. | Agreement to be Bound - Customer | \$0.00 | |
| (4) | CONTRACT6934 | Fusion LLC | Data Foundry, Inc. | Agreement to Inspect and Remove Equipment | \$0.00 | See cure amount associated with CONTRACT97. |
| (5) | CONTRACT6935 | Fusion LLC | Data Foundry, Inc. | Agreement to Inspect and Remove Equipment | \$0.00 | See cure amount associated with CONTRACT97. |
| (6) | CONTRACT6936 | Fusion LLC | Data Foundry, Inc. | Agreement to Inspect and Remove Equipment | \$0.00 | See cure amount associated with CONTRACT97. |
| (7) | CONTRACT6937 | Fusion LLC | Data Foundry, Inc. | Agreement to Inspect and Remove Equipment | \$0.00 | See cure amount associated with CONTRACT97. |
| (8) | CONTRACT6816 | Fusion LLC | Data Foundry, Inc. | Colocation/Data Center Lease | \$0.00 | See cure amount associated with CONTRACT1090. |
| (9) | CONTRACT6817 | Fusion LLC | Data Foundry, Inc. | Colocation/Data Center Lease | \$0.00 | See cure amount associated with CONTRACT1090. |
| (10) | CONTRACT6818 | Fusion LLC | Data Foundry, Inc. | Colocation/Data Center Lease | \$0.00 | See cure amount associated with CONTRACT1090. |
| (11) | CONTRACT1090 | Fusion LLC | Data Foundry, Inc. | Purchase Agreement - Customer | \$136,601.27 | |
| (12) | CONTRACT1092 | Fusion LLC | Data Foundry, Inc. | Purchase Agreement - Customer | \$0.00 | |
| (13) | CONTRACT373 | Fusion LLC | SoftwareOne, Inc. | Service Agreement - Customer | \$0.00 | See cure amount associated with CONTRACT372. |
| (14) | CONTRACT372 | Fusion LLC | SoftwareOne, Inc. | Services Provider License Agreement | \$904,829.31 | |
| (15) | CONTRACT15027 | Fusion LLC | Strategic Products & Services | Sales Independent Contractor Agreement dated July 7, 2009, as amended October/November 2019 | \$0.00 | |

Schedule 3

Schedule of Contracts with Amended Cure Amounts

Fusion Connect, Inc.
Balances as of June 3, 2019
(\$USD actual)

| <u>Contract ID</u> | <u>Debtor</u> | <u>Contract Counterparty</u> | <u>Contract Description</u> | <u>Previous Cure Amount</u> | <u>Amended Cure Amount</u> | <u>Notes / Related Contract ID</u> |
|--------------------|----------------------------|--|------------------------------|-----------------------------|----------------------------|--|
| (1) CONTRACT361 | Fusion Cloud Services, LLC | Hewlett Packard Enterprise Development LP | Statement of Work - Customer | \$0.00 | \$114,283.52 | Cure amount as agreed between parties November 2019. |