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

In re:	:	Chapter 11
	:	
GENERAL MOTORS CORP., et al.,	:	Case No. 09-50026(REG)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Hon. Robert E. Gerber

OBJECTION AND RESERVATION OF RIGHTS OF SUN MICROSYSTEMS, INC. AND SUN MICROSYSTEMS GLOBAL FINANCIAL SERVICES, LLC TO NOTICES OF (I) DEBTORS' INTENT TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS, UNEXPIRED LEASES OF PERSONAL PROPERTY, AND (II) CURE AMOUNTS RELATED THERETO

TO: HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Sun Microsystems, Inc. and Sun Microsystems Global Financial Services, LLC

(collectively, "Sun") hereby files its *Objection And Reservation Of Rights Of Sun Microsystems Inc. and Sun Microsystems Global Financial Services, LLC To Notices Of (I) Debtor's Intent To Assume And Assign Certain Executory Contracts, Unexpired Leases Of Personal Property, And*

(II) *Cure Amounts Related Thereto* (the “Objection and Reservation of Rights”) to (a) the assumption and assignment of executory contracts GM has insufficiently identified; (b) the assumption and assignment of executory contracts to which none of the Debtors is a party; (c) the proposed monetary cure amount that General Motors Corporation (“GM”), on behalf of itself and its affiliated debtors and debtors in possession in the above-referenced cases (collectively, the “Debtors”)¹, contends has to be paid to Sun as a pre-condition to the assumption of certain executory contracts to which Sun and one of the Debtors are counterparties; and (d) the assignment of these executory contracts to any third party (whether or not such third party is the purchaser of any of the Debtors’ assets) except upon satisfaction of the conditions set forth hereinafter.

STATEMENT OF RELIEF REQUESTED BY SUN

Sun seeks entry of an order requiring that assumption and assignment of any executory contracts and unexpired leases to which Sun is a counterparty are expressly conditioned upon -

(1) submission by Debtors of more detailed information (*e.g.* the date of each executory contract, full contract title and/or contract number, the parties, *etc.*) to Sun identifying all specific executory contracts and unexpired leases to which Sun is a counterparty and which the Debtors seek to assume and to assign in addition to those executory contracts identified on Exhibit ”A” hereto (contracts identified on Exhibit A hereinafter referred to as the “Identified Contracts”);

(2) payment of (A) the not less than **\$3,260,368.67**, and such additional amounts that

¹ The Debtors and their respective Tax ID Numbers are as follows: General Motors Corporation, Tax ID. 38-0572515; Saturn, LLC, Tax ID No. 38-2577506; Saturn Distribution Corporation, Tax ID No. 38-2755764; and, Chevrolet-Saturn of Harlem, Inc., Tax ID No. 20-1426707.

become due hereafter to cure the monetary defaults under the Identified Contracts, plus (B) the monetary default existing with connection all executory contracts and unexpired leases to which Sun is a counterparty and which ultimately are determined to be subject to the *Notices of Intent To Assume and Assign* (as hereinafter identified), and all additional executory contracts or unexpired leases that are identified subsequently hereto, subject to adjustment of such amount in the event the Debtors (a) provide more specific identification by the Debtors of (i) all executory contracts and unexpired leases it contends are subject to the *Notices of Intent To Assume and Assign* (as hereinafter identified) and/or (ii) identify any additional executory contracts or unexpired leases that it seeks to assume and assign and (b) completion by Sun of its final accounting of all monetary defaults pertaining to all executory contracts to be assumed and assigned;

(3) entry of an order specifically providing that only executory contracts or unexpired leases to which Sun and one of the Debtors are counterparties are assumed and assigned upon payment of the amounts necessary to cure all monetary defaults under such contracts and satisfaction of any other terms imposed by the Court as a condition of such assumption and assignment; and

(4) reservation of all rights pertaining to any and all executory contracts other than the Identified Contracts on appropriate notices served as required by Court Order, including the right to assert additional cure amounts in connection with such contracts; and

(5) such other and further relief as may be appropriate under the circumstances.

BACKGROUND

1. On June 1, 2009 (the “Petition Date”), GM and the other Debtors filed voluntary petitions in this Court for relief under Chapter 11 of the Bankruptcy Code and, continually since

that date, the Debtors have operated as debtors-in-possession of their respective bankruptcy estates.

2. On June 1, 2009, the Debtors' filed the Sale and Assumption Motion² and sought entry of an order (A) authorizing and approving procedures to govern the sale process for substantially all the Debtors' assets and notices of (i) the hearing to consider authorization and approval of the sale, (ii) the assumption and assignment of executory contracts and unexpired leases of personal property and of nonresidential real property, and (iii) the approval of the UAW Retiree Settlement Agreement; (B) setting a hearing to consider the sale on June 30, 2009; and (C) authorizing and approving, among other things, (i) the sale of the Debtors' assets pursuant to the proposed Master Sale and Purchase Agreement and related agreements (the "MPA") among the Debtors (the "Sellers") and Vehicle Acquisition Holdings LLC (the "Purchaser"), a purchaser sponsored by the United States Department of the Treasury (the "U.S. Treasury"), free and clear of liens, claims, encumbrances, and other interests (the "363 Transaction"), (ii) the assumption and assignment of certain executory contracts and Leases, and (iii) the approval of UAW Retiree Settlement Agreement.

3. On June 2, 2009, this Court entered an order (the "Sale and Assumption Procedures Order")³, which provides, in pertinent part, as follows:

(a) Objections to the 363 Transaction. All objections to the 363 Transaction [*i.e.*, *sale of substantially all of the assets*] must be filed with the Court and

² See the Debtor's Motion Pursuant To 11 U.S.C. §§ 105, 363, And 365 And Fed. R. Bankr. P. 2002, 6004, And 6006 To (I) Approve (A) The Sale Pursuant To Master Sale And Purchase Agreement With Vehicle Acquisition Holdings LLC, A U.S. Treasury-Sponsored Purchaser; Free and Clear of Liens, Claims, Encumbrances And Other Interests; (B) The Assumption And Assignment Of Certain Executory Contracts and Unexpired Leases; And (C) Other Relief; And (II) Schedule Sale Approval Hearing (the "Sale & Assumption Motion") [Dkt 92].

³ See Order Pursuant To 11 U.S.C. §§ 105, 363, And 365 And Fed. R. Bankr. P. 2002, 6004, And 6006 (I) Approving Procedures For Sale Of Debtors' Assets Pursuant To Master Sale And Purchase Agreement With Vehicle Acquisition Holdings LLC, A U.S. Treasury-Sponsored Purchaser; (II) Scheduling Bid Deadline And Sale Hearing Date; (III) Establishing Assumption And Assignment Procedures; And (IV) Fixing Notice Procedures And Approving Form Of Notice (the "Sale & Assumption Procedure Order") [Dkt 274].

served upon certain parties so as to be received by the Objection Deadline [*i.e.*, June 19, 2009, at 5:00 p.m.] [See ¶11 of the Sale & Assumption Order.]

(b) Objections To Cure Amount and Contract Assumption/Assignment. Contract Objections and Cure Objections must be filed and served in accordance with the procedure set forth in paragraph 10 of the Sale and Assumption Procedure Order (*see* III., below). Pursuant to this Order –

(i) The Debtors were required to **serve**, within three (3) days after entry of this Order (the “Mailing Deadline”) [*i.e.* not later than 6/5/09], a copy of the Sale and Assumption Procedures Order upon the non-Debtor parties to the Assumable Executory Contracts; and

(ii) On or before the Mailing Deadline [*i.e.* not later than 6/5/09], the Debtors were required to serve a notice of the assumption and assignment of the Assumable Executory Contracts and the proposed cure amounts relating to the Assumable Executory Contracts (the “Assumption and Assignment Notice”) upon the non-Debtor parties to the Assumable Executory Contracts.

(d) The Sale And Assumption Order sets forth procedures (the “Assumption and Assignment Procedures”) that govern the assumption and assignment of the Assumable Executory Contracts in connection with the sale of the Purchased Assets to the Purchaser:

(i) Determination of Assumable Executory Contracts. The Sellers are required to maintain a schedule (the “Schedule”) of Executory Contracts and Leases that the Purchaser has designated as Assumable Executory Contracts. [See ¶10 of the Sale & Assumption Order.] The Sellers also are required to maintain a secure website (the “Contract Website”) that the non-Debtor counterparty to an Assumable Executory Contract can access to find current information about the status of its respective Executory Contract or Lease. The Contract Website contains, for each Assumable Executory Contract, (i) an identification of each Assumable Executory Contract that the Purchaser has designated for assumption and assignment and (ii) the Cure Amounts that must be paid to cure any prepetition defaults under such respective Assumable Executory Contract as of the Commencement Date. The information on the Contract Website shall be made available to the non-Debtor counterparty to the Assumable Executory Contract (the “Non-Debtor Counterparty”), but shall not otherwise be publicly available.

(ii) Following the designation of an Executory Contract or Lease as an Assumable Executory Contract, the Debtors also are required to provide notice (the “Assumption and Assignment Notice”) to the Non-Debtor Counterparty to the Assumable Executory Contract setting forth (i) instructions for accessing the information on the Contract Website relating to such Non-Debtor Counterparty’s Assumable Executory Contract and (ii) the procedures for objecting to the proposed assumption and assignment of the Assumable Executory Contract. [See ¶10 of the Sale & Assumption Order.]

4. Subsequent to entry of the Sale And Assumption Procedures Order, the Debtors served on Sun copies of the *Notices Of (I) Debtor’s Intent To Assume And Assign Certain Executory Contracts, Unexpired Leases Of Personal Property, And (II) Cure Amounts Related*

Thereto (the “Notices of Intent”), which did not identify any executory contracts or unexpired leases that the Debtors intend to assume and assign. A true and accurate copy of the Notices of Intent are attached hereto as Exhibit “B” and incorporated by reference herein as if fully set forth.

5. The Notices of Intent provided access information for the Contract Website, and Sun thereafter accessed the Contract Website. Unfortunately, the Website’s only descriptions of the contracts the Debtors proposed to assume were generic labels such as “Agreement,” “License Agreement” or “IT Master Lease Agreement” without any meaningful identifying information such as the actual name of the contract, the date of the contract or even the identity of the specific Debtor that is the GM counterparty to the contract.⁴ Further, the Contract Website provides no data with respect to the proposed Cure Amount. *See* Exhibits “C-1” and “C-2” attached hereto and incorporated by reference herein as if fully set forth.

6. Based on the review of Sun’s records within the limited time provided, Sun submits that (a) the monetary defaults as of this date under the Identified Contracts is not less than **\$3,260,368.67** and (b) that such amounts may be increased or decreased once the Debtors identify any additional executory contracts that it intends to assume and assign and Sun completes its final review of its books and records.

GROUND FOR THE RELIEF REQUESTED

Failure to Specifically Identify All Executory Contracts To Be Assumed and Assigned Denies Sun’s Due Process

7. Before a creditor’s interests may be adversely affected by judicial action, the due process clause of the Fifth Amendment to the United States Constitution requires “notice be

⁴ GM does provide a GM contract ID for a minority of the contract listings, but GM’s ID system does not provide

reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action . . .” and to afford them an opportunity to present their objections. *See City of N.Y. v. New York, N.H. & H. R.R. Co.*, 344 U.S. 293, 297, 73 S.Ct. 299, 301, 97 L.Ed. 333 (1953) (a reasonable opportunity to be heard must precede judicial denial of a party’s claimed rights); *U.S. v. Security Indus. Bank*, 459 U.S. 70, 75, 103 S.Ct. 407, 410, 74 L.Ed2d 235 (1982) (Bankruptcy proceedings are subject to the fifth amendment); *Owens-Corning Fiberglass Corp. v. Center Wholesale, Inc. (In re Center Wholesale, Inc.)*, 759 F.2d 1440, 1448 (9th Cir. 1985) *citing Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950). *Accord, In re Golden Books*, 269 B.R. 300, 305 (Bankr. D. Del. 2001) (An assumption notice seeking authority to assume and assign executory contracts, including licenses of intellectual property, is governed by Federal Rule of Bankruptcy Procedure 6006(a)).

8. Neither the Assumption and Assignment Notice, the Contract Website, nor any other pleadings or notices filed or served by the Debtors adequately identifies the executory contracts or unexpired leases to which Sun may be a counterparty and which the Debtors seek to assume and assign. Stating that the Debtors propose to assume and assign an executory contract identified with the generic label of “Agreement” fails to provide adequate information to enable Sun to identify the contract at issue, particularly where there are hundreds of contracts (including purchase orders) to which the Debtors and Sun are counterparties. Absent the provision of such fundamental information, Sun cannot determine all of the grounds (if any) barring assumption of such contracts or otherwise governing its rights in this matter, or whether the Debtor has complied with the mandates governing assumption and assignment of executory contracts as set forth in §365(b), (c) and (f) of the Bankruptcy Code.

assistance to Sun’s identification of the contract.

9. Sun submits that entry of an order authorizing and approving the assumption of any executory contracts and unexpired leases to which Sun is a counterparty without first requiring the Debtors to specify the precise contracts at issue, will deny Sun a meaningful opportunity to be heard on the issue whether any bar to assumption of any executory contracts to which it is a party may be asserted. Therefore, it contends that final approval of the assumption or assignment of such executory contracts based on the record before this Court would constitute denial of Sun's due process rights.

The Debtors Cannot Assume and Assign Executory Contracts to Which They Are Not Parties

10. While failing to provide adequate information to identify the specific contracts involved, the Contract Website does list a number of Sun's foreign affiliates. Sun's foreign affiliates are typically a party to a contract wherein the GM counterparty is a GM foreign affiliate, *i.e.*, a GM affiliate that is not one of the Debtors.

11. Section 365 only permits a trustee to assume and assign an executory contract or unexpired lease of the debtor. Contracts wherein the counterparties are a Sun affiliate and a non-debtor GM affiliate are not an executory contract of any of the Debtors and cannot be assumed and assigned absent the consent of the Sun affiliate. Accordingly, the Court has no authority or jurisdiction to authorize the assumption or assignment of an executory contract to which none of the Debtors is a party.

All Defaults Under Any Designated Contract Must Be Cured As A Condition Of Assumption

12. Section 365(b) (1) of the Bankruptcy Code require the Debtors to pay all monetary defaults in full and to provide adequate assurance of future performance by the Purchaser as conditions of effectiveness of assumption and assignment of executory contracts

and unexpired leases to which Sun is a counterparty (including, without limitation, the Identified Contracts). Therefore, in the event that a Debtor has defaulted on an executory contract, Section 365(b)(1) of the Bankruptcy Code prohibits the debtor from assuming the contract unless the debtor:

(A) cures, or provides adequate assurance that the [debtor] will promptly cure, such default

(B) compensates, or provides adequate assurance that the [debtor] will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

13. Both pre- and post-petition defaults must be cured: “The other party to the contract or lease that the trustee proposes to assume is entitled to insist that any defaults, whenever they may have occurred, be cured, that appropriate compensation be provided, and that, a past default having occurred, adequate assurance of future performance is available.” 3 COLLIER ON BANKRUPTCY § 365.05[2] (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev. 2008). Accordingly, to assume an executory contract and unexpired lease to which Sun is a counterparty (including, without limitation, the Identified Contracts), the Debtors must: (a) cure all defaults, or provide adequate assurance of prompt cure; (b) compensate Sun for its pecuniary losses; and (c) provide adequate assurance of future performance. *See Stoltz v. Brattleboro Housing Authority*, 315 F.3d 80, 94 (2nd Cir. 2002). These conditions “protect the creditor’s pecuniary interests before requiring a creditor to continue a contractual relationship with a debtor.”

14. Alternatively, the Debtors may provide “adequate assurance that [they] will promptly cure” the defaults. *See* 11 U.S.C. 365(b)(1)(A). Adequate assurance of prompt cure

can be shown only by “a firm commitment to make all payments and at least a reasonably demonstrable capability to do so.” See *In re Embers 86th Street, Inc.*, 184 B.R. 892, 900-01 (Bankr. S.D.N.Y. 1995) (citing *In re R.H. Neil, Inc.*, 58 B.R. 969 (Bankr. S.D.N.Y. 1986)); accord. 2 William L. Norton, Jr. & William L. Norton III, NORTON BANKRUPTCY LAW AND PRACTICE § 46:29 (3rd ed. 2008) (emphasis in original) (“Adequate assurance requires a firm commitment by the trustee or debtor-in-possession to make all payments or, at a minimum, to demonstrate a reasonable ability to do so.”). Therefore, assumption and assignment of an executory contract is improper where a debtor or *its* assignee fails to provide adequate assurance of future performance. See, e.g., *In re Metromedia Fiber Network, Inc.*, 335 B.R. 41, 65-66 (Bankr. S.D.N.Y. 2005) (denying proposed assumption where debtor failed to provide adequate assurance of future performance).

The Debtors Have Not Satisfied Section 365

15. The Debtors have failed to provide any meaningful information identifying the executory contracts and unexpired leases to which Sun is a counterparty or the monetary default that must be cured with respect to any such contract or to provide adequate assurance that the Debtors will promptly cure their defaults under any of these contracts. Sun submits that the Debtors’ monetary default under the Identified Contracts is not less than \$3,260,368.67.⁵ To assume any executory contracts or unexpired leases to which Sun is a counterparty (including, without limitation, the Identified Contracts), the Debtors must cure all monetary defaults, whether they arise pre- or post-petition, and provide adequate assurance that all post-petition debts will be paid in full.

⁵ This includes approximately \$1,587,146 in delinquent payments under certain Schedules administered by Hewlett-Packard for the Debtors.

RESERVATION OF RIGHTS

16. In the absence of any further identification of the executory contracts to be assumed and assigned by the Debtors, Sun understands that the Debtors only intend to assume and to assign the Identified Contracts and, upon payment of the \$3,260,368.67 in monetary defaults and provision of adequate assurance of future performance by the Purchaser (or the Successful Bidder), it consents to assumption and assignment of the Identified Contracts.

17. Sun expressly asserts that any and all other executory contracts other than the Identified Contracts are not subject to assumption or assignment until properly identified and Sun has an opportunity to determine if further amounts are necessary to cure monetary defaults.

18. Sun's statement of the cure amount for the Identified Contracts is without prejudice to, and Sun reserves all legal rights and arguments concerning whether, (i) the Debtors' designation of contracts to be assumed and assigned is specific enough to include any given contract between Sun and one or more of the Debtors, (ii) any contract designated by the Debtors or the Sellers on the Contract Website, any Cure Notice or any Assumption and Assignment Notice is a contract over which the Bankruptcy Court has any jurisdiction, and (iii) a contract designated by the Debtors or Sellers on the Contract Website, any Cure Notice or any Assumption and Assignment Notice or otherwise is executory so as to be covered by the terms of the Sale and Assumption Order. Sun specifically reserves all of its rights, interests and claims related to any other executory contracts that exist by and between Sun, its affiliates and subsidiaries and the Debtors and their respective affiliates and subsidiaries, including without limitation the right to assert a cure amount with respect to any such contract as hereinafter is determined to be subject to assumption and/or assignment by the Debtors, to commence and maintain an action in any appropriate forum or jurisdiction, and to take such other actions as may

be permitted at law or equity with regard to any such contract (the “Reservation of Rights”).

WHEREFORE, Sun hereby requests the Court enter its order requiring that assumption and assignment of any executory contracts and unexpired leases to which Sun is a counterparty (including, without limitation, the Identified Contracts) are expressly conditioned upon (1) submission by Debtors of more detailed information (*e.g.* the date of each executory contract, full contract title and/or contract number, the parties, *etc.*) to Sun identifying all specific executory contracts and unexpired leases the Debtors seek to assume and to assign;

(2) payment of the not less than **\$3,260,368.67** and such additional amounts that become due hereafter to cure the monetary default incurred up and through the date of assumption of the Identified Contracts, all executory contracts and unexpired leases ultimately determined to be subject to the *Notices of Intent To Assume and Assign*, and all additional executory contracts or unexpired leases that are identified subsequently hereto, subject to adjustment of such amount in the event the Debtors (a) provide more specific identification by the Debtors of (i) all executory contracts and unexpired leases it contends are subject to the *Notices of Intent To Assume and Assign* and/or (ii) identify any additional executory contracts or unexpired leases that it seeks to assume and assign and (b) completion by Sun of its final accounting of all monetary defaults pertaining to all executory contracts to be assumed and assigned (including without limitation all (i) Identified Contracts, (ii) all executory contracts and unexpired leases subject to the *Notices of Intent to Assume and Assign* and (iii) any and all additional executory contracts and unexpired leases as may be identified by the Parties for assumption and assignment);

(3) entry of an order specifically providing that only executory contracts or unexpired leases to which Sun is a counterparty are assumed and assigned upon payment of the proper

Cure Amount and satisfaction of any other terms imposed by the Court as a condition of such assumption and assignment; and

(4) reservation of all rights pertaining to any and all executory contracts not specifically identified as Identified Contracts by the Debtor on appropriate notices served as required by Court Order;

(5) such other and further relief as may be appropriate under the circumstances.

Dated: New York, New York
June 12, 2009

Respectfully submitted,

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And

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Microsystems Global Financial Services, LLC*

EXHIBIT A

Identified Contracts For Assumption and Assignment

	<u>Sun Counterparty</u>	<u>GM Counterparty</u>	<u>Title of Agreement</u>	<u>Date of Agreement</u>
1.	Sun Microsystems Global Financial Services, LLC	General Motors Corporation	Master Lease Agreement*	06-08-08
2.	Sun Microsystems, Inc.	General Motors Corporation	Software License Agreement**	05-10-04

* Sun assumes that the Debtors intend to include the Schedules entered into between the parties that incorporate the terms of the Master Lease Agreement, notwithstanding that the Schedules have been assigned to third parties.

** As amended by Amendment Number One dated April 26, 2005 and Amendment #2 to the Software License Agreement dated June 30, 2005.

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

In re

GENERAL MOTORS CORP., *et al.*,

Debtors.

Chapter 11 Case No.

09-50026 (REG)

(Jointly Administered)

SUN MICROSYSTEMS INC
1000 TOWN CTR STE 1700
SOUTHFIELD, MI 48075-1233

1. Please carefully review the enclosed Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts, Unexpired Leases of Personal Property, and Unexpired Leases of Nonresidential Real Property and (II) Cure Amounts Related Thereto.
2. In order to view the Cure Amount for the Assumable Executory Contracts to which you are a party, you must log onto: <http://www.contractnotices.com>.
3. To log on, please use the user name and password provided to you below.
4. If you have questions about the Assumable Executory Contracts or proposed Cure Amounts, you may call 1-888-409-2328 (in the United States) or 1-586-947-3000 (outside the United States).

User ID:

Password:

Vendor ID #:

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

In re

GENERAL MOTORS CORP., *et al.*,

Debtors.

Chapter 11 Case No.

09-50026 (REG)

(Jointly Administered)

Sun Microsystems Global Financial Services

~~STEVEN MILLER~~

1000 TOWN CTR STE 1700
SOUTHFIELD, MI 48075-1233

1. Please carefully review the enclosed Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts, Unexpired Leases of Personal Property, and Unexpired Leases of Nonresidential Real Property and (II) Cure Amounts Related Thereto.
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User ID:

Password:

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

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: :
In re : **Chapter 11 Case No.**
: :
GENERAL MOTORS CORP., et al., : **09-50026 (REG)**
: :
Debtors. : **(Jointly Administered)**
: :
-----X

**NOTICE OF (I) DEBTORS' INTENT TO ASSUME AND ASSIGN CERTAIN
EXECUTORY CONTRACTS, UNEXPIRED LEASES OF PERSONAL PROPERTY,
AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY
AND (II) CURE AMOUNTS RELATED THERETO**

PLEASE TAKE NOTICE THAT:

1. By motion dated June 1, 2009 (the "Motion"), General Motors Corporation ("GM") and its debtor subsidiaries, as debtors in possession (collectively, the "Debtors" or the "Company"),¹ sought, among other things, authorization and approval of (a) the sale of substantially all the Debtors' assets pursuant to that certain Master Sale and Purchase Agreement and related agreements (the "MPA") among the Debtors (the "Sellers") and Vehicle Acquisition Holdings LLC (the "Purchaser"), a purchaser sponsored by the United States Department of the Treasury (the "U.S. Treasury") (the "363 Transaction"), free and clear of liens, claims, encumbrances, and interests, (b) certain proposed procedures to govern the sale process and provide for the submission of any competing bids for substantially all the Debtors' assets (the "Sale Procedures"), (c) the assumption and assignment of certain executory contracts (the "Contracts") and unexpired leases of personal property and of nonresidential real property (collectively, the "Leases") in connection with the 363 Transaction, (d) that certain settlement agreement between the Purchaser and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("UAW") to be executed at the closing of the 363 Transaction (the "UAW Retiree Settlement Agreement"), and (e) scheduling a final hearing for approval of the 363 Transaction (the "Sale Hearing").²

¹ The Debtors and their respective Tax ID numbers are as follows: General Motors Corporation, Tax ID No. 38-0572515; Saturn, LLC, Tax ID No. 38-2577506; Saturn Distribution Corporation, Tax ID No. 38-2755764; and Chevrolet-Saturn of Harlem, Inc., Tax ID No. 20-1426707.

² Copies of the Motion and the MPA (without certain commercially sensitive attachments) may be obtained by accessing the website established by the Debtors' claims and noticing agent, The Garden City Group, Inc., at <http://www.gmcourtdocs.com>.

2. The MPA, which, together with certain ancillary agreements, contemplates a set of related transactions for the sale of substantially all the Debtors' assets, defined as the "Purchased Assets" in Section 2.2(a) of the MPA, including certain Contracts and Leases, subject to higher or better offers.

3. The MPA contemplates, and the proposed order approving the Motion (the "Sale Order"), if approved, shall authorize the assumption and assignment to the Purchaser of certain Contracts and Leases pursuant to section 365 of title 11, United States Code (the "Bankruptcy Code"). The Sellers maintain a schedule containing Contracts and Leases that the Debtors may assume and assign to the Purchaser (collectively, the "Assumable Executory Contracts"). You are receiving this Notice because you are a party to one or more of the Assumable Executory Contracts.

4. THE SCHEDULE CONTAINS A LIST OF ASSUMABLE EXECUTORY CONTRACTS THAT MAY BE ASSUMED. THE PURCHASER RESERVES THE RIGHT UNDER THE MPA TO EXCLUDE ANY ASSUMABLE EXECUTORY CONTRACT FROM THE LIST OF ASSUMABLE EXECUTORY CONTRACTS TO BE ASSUMED AND ASSIGNED BY NO LATER THAN THE DESIGNATION DEADLINE DISCUSSED IN PARAGRAPH 13 BELOW.

5. The Debtors maintain a secure website which contains information about your Assumable Executory Contract, including amounts that the Debtors believe must be paid to cure all prepetition defaults under the respective Assumable Executory Contracts as of the Commencement Date in accordance with section 365(b) of the Bankruptcy Code (the "Cure Amounts"). In order to view the Cure Amount for the Assumable Executory Contract to which you are a party, you must log onto <http://www.contractnotices.com> (the "Contract Website"). To log on, please use the user name and password provided to you with this notice. The username and password will enable you to access the Cure Amount for the particular Assumable Executory Contract to which you are a party.

6. Please review the Cure Amount for your Assumable Executory Contract. In some instances, additional terms or conditions of assumption and assignment with respect to a particular Assumable Executory Contract are provided on the Contract Website.

7. Objections, if any, to the proposed assumption and assignment of the Assumable Executory Contracts (the "Contract Objections"), including objections to the Cure Amount, must be made in writing and filed with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") so as to be received **no later than ten (10) days after the date of this Notice** (the "Objection Deadline") by (i) the Debtors, c/o General Motors Corporation, Cadillac Building, 30009 Van Dyke Avenue, Warren, Michigan 48090-9025 (Attn: Warren Command Center, Mailcode 480-206-114); (ii) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.); (iii) the U.S. Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, D.C. 20220 (Attn: Matthew Feldman, Esq.); (iv) Cadwalader, Wickersham & Taft LLP, attorneys for the Purchaser, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (v) the attorneys for the Creditors Committee; (vi) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael

J. Edelman, Esq. and Michael L. Schein, Esq.); and (vii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Diana G. Adams, Esq.).

8. If a timely Contract Objection is filed solely as to the Cure Amount (a "Cure Objection"), then the Assumable Executory Contract shall nevertheless be assumed and assigned to the Purchaser on the Assumption Effective Date (as hereinafter defined), the Purchaser shall pay the undisputed portion of the Cure Amount on or as soon as reasonably practicable after the Assumption Effective Date, and the disputed portion of the Cure Amount shall be determined as follows and paid as soon as reasonably practicable following resolution of such disputed Cure Amount: To resolve the Cure Objection, the Debtors, the Purchaser, and the objecting non-Debtor counterparty to the Assumable Executory Contract (the "Non-Debtor Counterparty") shall meet and confer in good faith to attempt to resolve any such objection without Bankruptcy Court intervention. The Call Center (as defined in paragraph 18) has been established by the Debtors for this purpose. If the Debtors determine that the Cure Objection cannot be resolved without Bankruptcy Court intervention, then the Cure Amount will be determined as follows: (a) with respect to Assumable Executory Contracts pursuant to which the Non-Debtor Counterparty has agreed to an alternative dispute resolution procedure, then, according to such procedure; and (b) with respect to all other Assumable Executory Contracts, by the Bankruptcy Court at the discretion of the Debtors either at the Sale Hearing or such other date as determined by the Bankruptcy Court.

9. If a timely Contract Objection is filed that objects to the assumption and assignment on a basis other than the Cure Amount, the Debtors, the Purchaser, and the objecting Non-Debtor Counterparty shall meet and confer in good faith to attempt to resolve any such objection without Bankruptcy Court intervention. If the Debtors determine that the Contract Objection cannot be resolved without Bankruptcy Court intervention, then, at the discretion of the Sellers and the Purchaser, the Contract Objection shall be determined by the Bankruptcy Court at the Sale Hearing or such other date as determined by the Bankruptcy Court. If the Bankruptcy Court determines at such hearing that the Assumable Executory Contract should not be assumed and assigned, then such Executory Contract or Lease shall no longer be considered an Assumable Executory Contract.

10. If the Debtors, the Purchaser, and the Non-Debtor Counterparty resolve any Contract Objection, they shall enter into a written stipulation (the "Assumption Resolution Stipulation"), which stipulation is not required to be filed with or approved by the Bankruptcy Court.

11. If you agree with the respective Cure Amount(s) listed in the Contract Website with respect to your Assumable Executory Contract, and otherwise do not object to the Debtors' assumption and assignment of your Assumable Executory Contract, you are not required to take any further action.

12. Unless a Contract Objection is filed and served before the Objection Deadline, you shall be deemed to have consented to the assumption and assignment of your Assumable Executory Contract and the Cure Amount for your Assumable Executory Contract, and you shall be forever barred from objecting to the Cure Amount and from asserting any additional cure or other amounts against the Debtors, their estates, or the Purchaser.

13. Up to the date that is thirty (30) days following the closing of the 363 Transaction, or if such date is not a Business Day (as defined in the MPA), the next Business Day, or such other later date as mutually agreed upon by the Purchaser and the Debtors (the "Designation Deadline"), the Purchaser may, in its sole discretion, subject to certain limitations specified in the MPA (applicable only as between the parties thereto), exclude any of the Assumable Executory Contracts by providing notice on the Contract Website. Upon such designation, the Contract or Lease referenced therein shall no longer be considered an Assumable Executory Contract, shall not be deemed to be, or to have been, assumed or assigned, and shall remain subject to assumption, rejection, or assignment by the Debtors. Until the Designation Deadline, the Purchaser also may, subject to certain limitations specified in the MPA (applicable only as between the parties thereto) designate additional Contracts or Leases as Assumable Executory Contracts to be assumed and assigned by providing notice to the affected Non-Debtor Counterparties. The Contract Website shall be updated from time to time to reflect the then current status of your Contract or Lease as well as the proposed effective date (the "Proposed Assumption Effective Date"), if any, of the assumption and assignment of particular Contracts or Leases.

14. The Debtors' decision to assume and assign the Assumable Executory Contracts is subject to Bankruptcy Court approval and consummation of the 363 Transaction, and, absent such consummation, each of the Assumable Executory Contracts will not be assumed or assigned to the Purchaser and shall in all respects be subject to further administration under the Bankruptcy Code. All Assumable Executory Contracts will be assumed and assigned to the Purchaser on the date (the "Assumption Effective Date") that is the later of (i) the Proposed Assumption Effective Date and (ii) the date following expiration of the Objection Deadline if no Contract Objection, other than to the Cure Amount, has been timely filed, or, if a Contract Objection, other than to the Cure Amount, has been filed, the date of the Assumption Resolution Stipulation or the date of a Bankruptcy Court order authorizing the assumption and assignment to the Purchaser of the Assumable Executory Contract. Until the Assumption Effective Date, assumption and assignment of the Assumable Executory Contracts is subject to the Purchaser's rights to modify the designation of Assumable Executory Contracts as set forth in paragraph 13 above. Except as otherwise provided by the MPA, the Purchaser shall have no rights in and to a particular Assumable Executory Contract prior to the Assumption Effective Date.

15. The inclusion of any document on the list of Assumable Executory Contracts shall not constitute or be deemed to be a determination or admission by the Debtors or the Purchaser that such document is, in fact, an executory contract or Lease within the meaning of the Bankruptcy Code, and all rights with respect thereto are expressly reserved.

16. Any Contract Objection shall not constitute an objection to the relief generally requested in the Motion (e.g., the sale of the Purchased Assets by the Debtors to the Purchaser free and clear of liens, claims, encumbrances, and interests), and parties wishing to object to the relief generally requested in the Motion must file and serve a separate objection in accordance with the procedures approved and set forth in the order of the Bankruptcy Court approving the Sale Procedures.

17. If a party other than the Purchaser is determined to be the highest or best bidder for the assets to be sold pursuant to the 363 Transaction, you will receive a separate notice

providing additional information regarding the treatment of your Contract or Lease; *provided, however*, that if the applicable Cure Amount has been established pursuant to the procedures set forth in this Notice, it shall not be subject to further dispute if the new purchaser seeks to acquire such contract or Lease.

18. If you have questions about the Assumable Executory Contracts or proposed Cure Amounts, you may call 1-888-409-2328 (in the United States) or 1-586-947-3000 (outside the United States) (the "Call Center").

Dated: New York, New York
June 5, 2009

/s/ Stephen Karotkin

Harvey R. Miller

Stephen Karotkin

Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

Attorneys for Debtors
and Debtors in Possession

Contract Notices



User: 3Kx717AZ

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Supplier Details

Vendor Master ID: **5716-00014231**

Supplier Name: **Sun Microsystems Global Financial Services**

Contract Cure Amount: [Click here to view Contract Cure Amount Details](#)
of Contracts: **1**

Contracts

Row ID	GM Contract ID	Vendor ID	Counter Party Name	Contract Type	Contract Status
5716-00014231			Sun Microsystems Global Financial Services	Agreement	Noticed

[Hover mouse cursor here for Contract Status Legend](#)

Important Notices:

All capitalized terms used, but not defined expressly on this website, have the meaning ascribed to such terms in that in the sale motion.

Purchaser's designation of a purchase order as "Noticed" also means that the Purchaser is designating for assumption and assignment all agreements expressly incorporated into and/or referenced in such purchase order.

All contract descriptions that appear in the "Contract ID" field are for purposes of contract identification only and shall not be binding on the Debtors or the Purchaser, as the case may be, or serve as an admission, for any purposes in the debtors' chapter 11 cases, including determining the parties' substantive rights under the contract, establishing the executory nature of a contract or establishing the Debtors' proposed treatment of the contract for purposes of contract assumption and assignment.

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Supplier Details

Vendor Master ID: 5716-00014231

Supplier Name: Sun Microsystems Global Financial Services

Contract Cure Amount:

of Contracts: 1

[Click here to view Contracts](#)

Cure Amount Details

Remit DUNS	PO Number	BOL	Document Date	Due Date	Amount
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Supplier Details

Vendor Master ID: **0130444532**

Supplier Name: **SUN MICROSYSTEMS INC**

Contract Cure Amount:

of Contracts: **22**

[Click here to view Contract Cure Amount Details](#)

Contracts

Row ID	GM Contract ID	Vendor ID	Counter Party Name	Contract Type	Contract Status
5716-00014953			Sun Microsystems, Inc.	License Agreement	Noticed
5716-00014954			Sun Microsystems, Inc.	License Agreement	Noticed
5716-00014955			Sun Microsystems, Inc.	License Agreement	Noticed
5716-00014957			Sun Microsystems, inc.	License Agreement	Noticed
5716-00035629	ONS05404	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00077198	ONS04886	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00077199	ONS04904	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00077200	ONS05074	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00077201	ONS05198	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00077202	ONS05224	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00121202	TCS24010	043896195	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00121662	ONS05342	147551386	SUN MICROSYSTEMS INC	Agreement	Noticed
5716-00299363	N/A	N/A	Sun Microsystems Belgium NV	IT-Master Lease Agreement	Noticed
5716-00299364	N/A	N/A	Sun Microsystems of Canada Inc.	IT-Master Lease Agreement	Noticed
5716-00299365	N/A	N/A	Sun Microsystems of Canada Inc.	IT-Master Lease Agreement	Noticed
5716-00299366	N/A	N/A	Sun Microsystems GmbH	IT-Master Lease Agreement	Noticed
5716-00299367	N/A	N/A	Sun Microsystems de Mexico, S.A. de C.V.	IT-Master Lease Agreement	Noticed
5716-00299368	N/A	N/A	Sun Microsystems, Inc.	IT - Hardware Agreement	Noticed

5716-00299592	N/A	N/A	Sun Microsystems, Inc	IT-Software License Agreement	Noticed
5716-00299733	N/A	N/A	Sun Microsystems Nederland B.V.	IT-Master Lease Agreement	Noticed
5716-00299734	N/A	N/A	Sun Microsystems Ltd	IT-Master Lease Agreement	Noticed
5716-00305879	N/A	013044532	Sun Microsystems Inc	Agreement	Noticed

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Supplier Details

Vendor Master ID: **013044532**

Supplier Name: SUN MICROSYSTEMS INC
Contract Cure Amount:
of Contracts: 22

[Click here to view Contracts](#)

Cure Amount Details

Remit DUNS	PO Number	BOL	Document Date	Due Date	Amount
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*Attorneys for Sun Micro Systems, Inc. and
Sun Microsystems Global Financial Services, LLC*

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

In re:	:	Chapter 11
GENERAL MOTORS CORP., et al.,	:	Case No. 09-50026(REG)
Debtors.	:	(Jointly Administered)
	:	Hon. Robert E. Gerber

CERTIFICATE OF SERVICE

I, Catherine Lee, declare that I am over the age of eighteen years and not a party to or interested in the within action. I am an employee of BIALSON, BERGEN & SCHWAB, and my business address is 2600 El Camino Real, Suite 300, Palo Alto, California 94306.

On June 12, 2009, I served via FedEx delivery the following:

**OBJECTION AND RESERVATION OF RIGHTS OF SUN
MICROSYSTEMS, INC. AND SUN MICROSYSTEMS GLOBAL
FINANCIAL SERVICES, LLC TO NOTICES OF (I) DEBTORS'
INTENT TO ASSUME AND ASSIGN CERTAIN EXECUTORY
CONTRACTS, UNEXPIRED LEASES OF PERSONAL
PROPERTY, AND (II) CURE AMOUNTS RELATED THERETO**

to parties addressed as follows:

Diana G. Adams, Esq.
United States Trustee
33 Whitehall Street, 21st Floor
New York, NY 10004

John J. Rapisardi, Esq.
Cadwalader, Wickersham & Taft LLP
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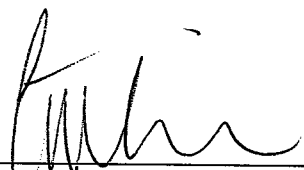
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Mailcode 480-206-114
Warren, MI 48090

Gordon Z. Novod
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on June 14, 2009, Palo Alto, California.



Catherine Lee