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**OBJECTION DEADLINE: February 21, 2012 at 4:00 p.m. (Eastern Time)**

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

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<b>In re</b>	: Chapter 11 Case No.
<b>MOTORS LIQUIDATION COMPANY, <i>et al.</i>,</b>	: <b>09-50026 (REG)</b>
<b>f/k/a General Motors Corp., <i>et al.</i></b>	: <b>(Jointly Administered)</b>
<b>Debtors.</b>	:
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**REPLY BRIEF IN SUPPORT OF THE MOTION OF WILMINGTON TRUST  
COMPANY, (I) AS GUC TRUST ADMINISTRATOR, TO LIQUIDATE NEW GM  
SECURITIES FOR THE PURPOSE OF FUNDING FEES, COSTS AND EXPENSES  
OF THE GUC TRUST AND THE AVOIDANCE ACTION TRUST, AND  
(II) AS AVOIDANCE ACTION TRUST ADMINISTRATOR, TO APPROVE  
AN AMENDMENT TO THE AVOIDANCE ACTION TRUST AGREEMENT**

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Wilmington Trust Company, not in its individual capacity and solely in the capacities as GUC Trust Administrator and Avoidance Action Trust Administrator, submits this reply (the “**Reply**”) in support of its motion seeking<sup>1</sup> (I) authority to liquidate certain New GM Securities for the purpose of funding fees, costs and expenses of the GUC Trust and the Avoidance Action Trust, and (II) approval of an amendment to the Avoidance Action Trust Agreement (the “**Motion**”).<sup>2</sup>

### PRELIMINARY STATEMENT

1. The GUC Trust Administrator and the Avoidance Action Trust Administrator (collectively, the “**Trust Administrator**”) provided notice of the Motion to thousands of interested parties.<sup>3</sup> Such parties have been afforded 32 days to review and object to the Motion. The only objections the Trust Administrator has received are from holders of disputed claims: (i) the limited objection (the “**Trustee Objection**”) of Green Hunt Wedlake, Inc., Trustee of General Motors Nova Scotia Finance Company (the “**Nova Scotia Trustee**”), (ii) the objection (the “**Noteholder Objection**”) of certain Noteholders of General Motors Nova Scotia Finance Company (the “**Nova Scotia Noteholders**”), and (iii) the recently-filed limited objection (the “**New York State Objection**,” and together with the Trustee Objection and the Noteholder Objection, the “**Objections**”) of the State of New York (“**New York State**,” and together with the Nova Scotia Trustee and the Nova Scotia Noteholders, the “**Objectors**”). While the Objections assert a panoply of complaints (each of which is

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<sup>1</sup> As discussed further below, the GUC Trust Administrator has withdrawn its request to transfer approximately \$17 million of New GM Securities to the Avoidance Action Trust for the purposes of funding a potential future tax liability.

<sup>2</sup> Capitalized terms that are not defined herein have the meanings ascribed to such terms in the Motion.

<sup>3</sup> As a means of control and oversight over the exact relief requested by the Motion, the GUC Trust Agreement requires extensive 20-day notice on all holders of allowed claims, all holders of disputed claims and all holders of Trust Units. In addition, supplemental service of the Motion was provided by Wilmington Trust Company (in its capacity as indenture trustee) through the Depository Trust Company to the holders of approximately \$23 billion of bond claims pursuant to the notice attached hereto as Exhibit D, and as an attachment to the filing of a Current Report on Form 8-K with the Securities and Exchange Commission.

addressed herein), the primary assertions<sup>4</sup> can be summarized as follows:

- **First Assertion:** The Trust Administrator has “excessively” or “grossly” exceeded the budget (*See* Trustee Objection ¶ 6; Noteholder Objection ¶¶ 1, 3, 4, 11, 12; New York State Objection ¶ 25);
- **Second Assertion:** The Trust Administrator breached an oral representation that the fees and expenses of the Trusts would be “tightly constrained by a detailed and inflexible budget” (*See* Trustee Objection ¶ 2; Noteholder Objection ¶¶ 3, 9, 10, 12; New York State Objection ¶¶ 5, 26);
- **Third Assertion:** The Trust Administrator has failed to provide sufficient detail or support both to justify the relief requested in the Motion (including a cost/benefit analysis) and to demonstrate that the funds sought are/will be spent in a way that benefits the estates (*See* Trustee Objection ¶ 4; Noteholder Objection ¶¶ 3, 4, 7, 11, 16; New York State Objection ¶¶ 19-22);
- **Fourth Assertion:** The Trust Administrator does not provide sufficient oversight over professional billing and compensation from the Trusts (*See* Noteholder Objection ¶ 4, 8, 24; New York State Objection ¶¶ 25-29);
- **Fifth Assertion:** The Trust Administrator, the GUC Trust Monitor and the Avoidance Action Trust Monitor (together, the “**Trust Monitor**”) submitted the Motion for the purposes of unjustifiably increasing their fees and creating a “slush fund” (*See* Noteholder Objection ¶¶ 12, 13, 14, 16, 19);
- **Sixth Assertion:** The sale of New GM Securities will unfairly affect holders of disputed claims (*See* Trustee Objection ¶ 5, New York State Objection ¶¶ 17, 18); and
- **Seventh Assertion:** The Trust Administrator has squandered Trust funds unjustifiably litigating such valid claims as those held by the Nova Scotia Noteholders (*See* Noteholder Objection ¶¶ 17, 20-22).

2. The First Assertion – that the Trusts have grossly exceeded their budgets – is simply incorrect. For the calendar year ended 2011, the GUC Trust was in fact under-budget in the aggregate, and the Avoidance Action Trust incurred only immaterial fees/expenses. As described more thoroughly in the Declaration of David A. Vanaskey, Jr., attached hereto as Exhibit E (the “**Vanaskey Declaration**”), the budget for the GUC Trust is a line-item constrained budget – such that if an individual professional is over-budget, the overage

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<sup>4</sup> While the primary objections of New York State are addressed in the main text herein, certain of the ancillary arguments are addressed separately in the chart attached hereto as Exhibit C.

cannot be netted against professionals that were under-budget. The GUC Trust was actually under-budget by approximately \$2 million in the aggregate for the calendar year 2011, and the GUC Trust professionals that exceeded their line-items were only over-budget by approximately \$3.5 million total,<sup>5</sup> not the \$31.5 million asserted in the Objections. The Objectors' attempt to classify anticipated fees and expenses for 2012 as current overages is calculated to provide a false sense of "sticker shock" that this Court should ignore.

3. The Second Assertion – that the Trust Administrator promised that the fees and expenses of the Trusts would be "tightly constrained by a detailed and inflexible budget" and then failed to abide by that representation – is equally misguided. A budget does exist for use of the Wind-Down Budget Cash, and that budget is tightly constrained and inflexible. The GUC Trust Administrator has no authority to exceed any of the line-items contained in that budget without the consent of the DIP Lenders. The "promise" by Wilmington Trust Company is entirely consistent with the procedures outlined for the Court by counsel for the Creditors' Committee at the Confirmation Hearing, namely that: (i) cash to pay professionals would be funded by a closely negotiated and tightly controlled budget for funds contributed by the DIP Lenders, and (ii) in the event of cost overruns, the Trust Administrator would be entitled to sell New GM Securities with the approval of the Court. While the Noteholder Objection cites and thoroughly discusses the comments of counsel to the Creditors' Committee with respect to item (i) above, it notably ignores any discussion of item (ii).

4. The Third Assertion – that the Motion lacks sufficient information regarding the benefits to the estate in order to grant the requested relief – is not well taken. The Motion provides nearly 10 pages of information regarding the work performed by the Trust Administrator, Trust Monitor and Trust Professionals in 2011 and the anticipated additional

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<sup>5</sup> These calculations are based upon forecasted actual fees and expenses for 2011. The GUC Trust is still receiving invoices for 2011 and certain invoices remain subject to review and analysis by the GUC Trust Administrator.

work that will be required in order to successfully continue the claims settlement and distribution duties of the Trusts, and to wind-down the Debtors' estates. The benefits to the estate are clear – the GUC Trust's track record in resolving claims is outstanding. As detailed in the Motion, over \$2.34 billion<sup>6</sup> of claims have been disallowed since the Effective Date while only approximately \$153 million of claims have been allowed during the same period. With respect to the Avoidance Action Trust, the benefit to the estates of litigating a \$1.5 billion avoidance action is equally clear – if successful, it will potentially provide an enormous cash recovery to the beneficiaries of the Avoidance Action Trust. However, to the extent the Court requires further substantiation, the Trust Administrator has filed contemporaneously herewith three declarations which, together with the attachments thereto, provide additional information regarding the nature of the costs borne by the Trusts and the expected benefits to the estates related thereto.

5. The Fourth Assertion – that the Trusts lack oversight and their professionals should submit fee applications to the Court and the U.S. Trustee (and potentially a fee examiner) – was specifically litigated and overruled by this Court in connection with confirmation of the Plan. An objection to confirmation of the Plan was filed by New York State which sought, among other relief, the post-Effective Date review of fees and expenses of Trust Professionals by the Court, the U.S. Trustee and a fee examiner. *See State of New York's Limited Objection to Debtors' Motion for Entry of an Order Confirming Liquidation Plan and GUC Trust* (“**New York State Confirmation Objection**”) (Docket No. 9208) at ¶¶ 13, 14. The Court considered and, in its *Bench Decision on Objections to Confirmation* dated March 7, 2011 (Docket No. 9638) (the “**Confirmation Decision**”), specifically overruled this

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<sup>6</sup> The Motion stated that the GUC Trust had resolved “over \$2.3 billion” in Disputed General Unsecured Claims since the Effective Date and that “just under \$2.2 billion [of such resolved claims] were disallowed.” Motion ¶ 6. However, upon further analysis, the Trust Administrator has determined that approximately \$2.5 billion in Disputed General Unsecured Claims have been resolved since the Effective Date, of which over \$2.34 billion have been disallowed.

objection, stating that “I’m comfortable, accordingly, that these mechanisms provide for sufficient oversight and control to protect the interests of unsecured creditors.” Confirmation Decision p. 29.

6. The Fifth Assertion – that the Motion is a back-door attempt to create a slush fund for the Trust Administrator and the Trust Monitor – is without merit. The Nova Scotia Noteholders wrongly argue that the Motion provides “no explanation” for the increase in fees of the Trust Administrator and Trust Monitor. In contrast to this assertion, the Motion provides substantial information regarding the increased workload of the Trust Administrator and Trust Monitor related to both the GUC Trust and the Avoidance Action Trust. Both the GUC Trust Agreement and the Avoidance Action Trust Agreement specifically provide that the Trust Administrator and the Trust Monitor are entitled to “fair and reasonable compensation” for their services and may be compensated from the sale of New GM Securities. The additional compensation sought by the Trust Administrator and the Trust Monitor was specifically highlighted in the Motion for this Court’s review and is justified. In addition, and for the avoidance of doubt, the Trust Administrator and Trust Monitor have provided additional information in the attached Vanaskey Declaration and the Declaration of Anna Phillips attached hereto as Exhibit F (the “**Phillips Declaration**”), respectively.

7. The Sixth Assertion – that the holders of Disputed General Unsecured Claims will be unduly harmed by the sale of New GM Securities – is based on a misreading of the GUC Trust Agreement. The New GM Securities sought to be sold and/or transferred pursuant to the Motion derive solely from “Excess GUC Trust Securities” as such term is defined in the GUC Trust Agreement. In essence, Excess GUC Trust Securities are the New GM Securities that were reserved for holders of Disputed General Unsecured Claims which were then subsequently “released” from such reserve as a result of the disallowance of the associated Disputed General Unsecured Claims. The GUC Trust Administrator is not

permitted, and is not seeking authority, to sell any of the securities reserved for payment of currently Disputed General Unsecured Claims, including those held by the Objectors. In its Estimation Orders (as defined below) the Court determined that such reserves were sufficient. The assertion that the sale of New GM Securities will decrease the disputed claims reserve is wrong.

8. Finally, the Seventh Assertion – that the GUC Trust has squandered its resources litigating meritorious claims – reveals the Objections as nothing more than a veiled and improper attack over disputed claims. The final pages of the Noteholder Objection prove this point by attacking the litigation strategy of the GUC Trust’s objections to the Nova Scotia Noteholders’ individual claims. Such complaints should be confined to the contested matter or adversary proceeding related to the Nova Scotia Noteholders’ individual claims and should not be litigated with respect to this Motion. That a large disputed claimant would object here solely to advance its own interests to the detriment of all other creditors by eliminating necessary funding for the Trusts should not be allowed.

### ARGUMENT

9. The Trust Administrator respectfully requests that the Court overrule the Objections and enter an order approving the relief requested in the Motion, as modified by this Reply, for the reasons set forth below.

#### **I. Reply to the First Assertion – The Trusts Have Not Exceeded Their Budgets**

10. Both the Noteholder Objection and the Trustee Objection lead with a statement that the Trust Administrator is seeking to liquidate approximately \$57 million of New GM Securities. *See* Trustee Objection ¶ 1; Noteholder Objection ¶ 1. As an initial matter, \$17 million of this quoted \$57 million related to New GM Securities that the Trust Administrator was not seeking to liquidate – rather, the Trust Administrator was seeking authority to transfer such New GM Securities to the Avoidance Action Trust where they



would have been held, unliquidated, until a time when and if it became necessary to satisfy a potential tax liability. That request has been withdrawn.<sup>7</sup> A revised proposed Order which incorporates this modification is attached hereto as Exhibit A (with a blackline comparison to the prior proposed Order attached as Exhibit B).<sup>8</sup>

11. Moreover, the Nova Scotia Noteholders fail to acknowledge that the cited \$57 million includes \$8.6 million designated for the satisfaction of Reporting and Transfer Costs – relief to which the Objectors do not object. See Noteholder Objection ¶ 2. Thus, the true estimated dollar value of New GM Securities at issue (at least with respect to the Noteholder Objection) is \$31.5 million, not \$57 million.

12. Next, both of the Objectors assert that the Trust Administrator has “failed to comply” with the Initial Budget, has “prematurely exhausted” the funding provided by the DIP Lenders and has allowed significant “cost overruns.” See Trustee Objection ¶ 6; Noteholder Objection ¶¶ 1, 3, 4, 11, 12; New York State Objection ¶ 25.

13. Such assertions are simply false and are easily dispelled by the fact that the Trusts are actually under-budget for the calendar year 2011. The total aggregate 2011 GUC Trust budget, as agreed by the DIP Lenders and filed with this Court as part of the Disclosure

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<sup>7</sup> Since the filing of the Motion, it has come to the attention of the Trust Administrator that possession of approximately \$17 million in securities by the Avoidance Action Trust could potentially trigger registration and/or reporting obligations for the Avoidance Action Trust under section 12(g) of the Securities Exchange Act of 1934. In order to avoid the additional cost associated with such potential registration/reporting obligations, the GUC Trust Administrator has determined that it will not pursue the transfer of the approximately \$17 million of New GM Securities to the Avoidance Action Trust at this time, and hereby withdraws that portion of the requested relief. The withdrawal of the request is without prejudice to the right of the GUC Trust Administrator to seek such relief in the future.

<sup>8</sup> The Internal Revue Service has issued private letter rulings concerning, *inter alia*, the tax characterization of (i) the 2009 section 363 sale by MLC and MLC’s subsequent liquidation and (ii) the GUC Trust. The proposed Order provides authority, but not the requirement, for the GUC Trust Administrator to transfer cash to the Avoidance Action Trust. The GUC Trust Administrator will not transfer any cash or New GM Securities to the Avoidance Action Trust until the Internal Revenue Service confirms that such transfers would not affect its prior rulings regarding the tax characterization of (i) the 2009 section 363 sale by MLC and MLC’s subsequent liquidation and (ii) the GUC Trust as a “disputed ownership fund” within the meaning of Treasury Regulation section 1.468B-9.

Statement, provided for \$23,044,150 in estimated expenditures.<sup>9</sup> Actual expenditures by the GUC Trust for the calendar year 2011 were \$20,988,648.<sup>10</sup> However, because the Initial Budget is a line-item constrained budget, budget room created by under-billing professionals cannot be utilized to satisfy the fees of over-budget professionals. Thus, while the GUC Trust was under-budget in the aggregate, it was “over-budget” by \$3.456 million due to individual line item overages. *See* Exhibit B to the Vanaskey Declaration.

14. To the extent that the GUC Trust can be considered “over-budget” for 2011, such overage is, at worst, \$3.456 million – an eminently reasonable amount given the number of professionals employed by the GUC Trust, the high level of pressure exerted by the DIP Lenders in negotiating the Initial Budget, and the uncertainty in any forward-looking estimation of fees.<sup>11</sup> Thus, of the \$31.5 million in proposed sales of New GM Securities, \$28 million relates to anticipated GUC Trust overages for 2012 and Avoidance Action Trust overages for its expected life. These “overages” have not yet occurred – instead, the request for relief is a predominantly forward looking and proactive request on behalf of the Trust Administrator that reflects a prudent exercise of its fiduciary duties under the GUC Trust Agreement. In the view of the Trust Administrator, as detailed further below, the incurrence of these future costs and expenses is accompanied by a significant benefit to the estates – as such, the relief requested in the Motion should be approved.

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<sup>9</sup> The Initial Budget, filed as Exhibit B to the Disclosure Statement, originally provided for aggregate estimated expenditures of \$25,211,000 for 2011. However, this aggregate budget was subsequently reduced to \$23,044,150.

<sup>10</sup> As noted above, the Avoidance Action Trust did not begin operations until December 15, 2011 when MLC dissolved. As such, there was no “budget” specified for the Avoidance Action Trust in 2011. Only immaterial costs were incurred during 2011.

<sup>11</sup> Despite the assertions of the Nova Scotia Noteholders and New York State to the contrary (*see* Noteholder Objection ¶ 11; New York State Objection ¶ 21), the Motion provides five pages of detailed information describing the nature and scope of the 2011 “overruns” and their reasonableness. *See* Motion ¶¶ 22-32.

**II. Reply to the Second Assertion – The Sale of Stock Was Always Anticipated for Budget Excesses**

15. The Objectors assert (i) that the Trust Administrator promised in its response (the “**Confirmation Reply**”) (Docket No. 9390) in connection with confirmation of the Plan that Trust Professionals would be “tightly constrained by a detailed and inflexible budget,” and (ii) that the Creditors’ Committee assured objectors to the Plan that the Initial Budget would be tightly controlled (the “**Committee Comments**”). See Trustee Objection ¶ 2; Noteholder Objection ¶¶ 3, 9, 10, 12; New York State Objection ¶¶ 5, 26. The Objectors have taken these statements out of context to narrowly and wrongly assert that the Trust Administrator and Creditors’ Committee promised that professional fees and expenses would not exceed the Initial Budget. No such promise was actually made, and to suggest otherwise is to misunderstand (or misrepresent) the Confirmation Reply and Committee Comments.

16. First, the statement in the Confirmation Reply was and still remains true today – a detailed budget, approved by the DIP Lenders, exists and is inflexible. However, nothing in the Confirmation Reply or in the Committee Comments ever suggests that the failure by professionals to comply with the Initial Budget destroys such professionals’ right to compensation. Instead, The Confirmation Reply and the Committee Comments outline a package of oversight/controls for Trust Professional fee review which begin with the inflexible DIP Lender-approved Initial Budget (the item on which the Objectors are focused) and end with Court review and approval of any proposed sale of New GM Securities to fund fees and expenses in excess of the Initial Budget (the item which the Objectors ignore).

17. Second, it was always understood that the limited funds contributed by the DIP Lenders for the wind-down of the Debtors’ estates might not be sufficient to satisfy the needs of the Trusts. The fact that professional fees could potentially exceed the Initial Budget was no secret – it was specifically contemplated in the GUC Trust Agreement and highlighted for this Court in connection with confirmation of the Plan. Indeed, the GUC

Trust Agreement includes incentives and penalties for non-compliance with the Initial Budget, both of which would be unnecessary if strict compliance with the Initial Budget was required. *See* GUC Trust Agreement §2.6(d) (providing that all professional fees are subject to a 10% holdback, to be paid at each calendar year end if professional is under-budget and to be withheld until dissolution if over-budget). Moreover, the GUC Trust Agreement further contains lengthy and detailed procedures for the funding of professional fees from the sale of New GM Securities in the event of professional fee overages. Such procedures would be unnecessary if, as the Objectors erroneously assert that the Trust Administrator represented, strict compliance with Initial Budget was required.

18. Third, both the Confirmation Reply and the Committee Comments acknowledged that budget overages were a definite possibility. Indeed, Court oversight and approval of the sales of New GM Securities to fund over-budget professionals was highlighted in the Confirmation Reply and in the Committee Comments immediately after the statements cited by the Nova Scotia Noteholders pertaining to a tightly controlled budget:

Finally, if the trustee, if Wilmington Trust ends up having to sell stock to pay for professional expenses, it has to come to this Court first...

Confirmation Hearing Tr. at 147:16-147:18 (Docket No. 9791).

19. In sum, all parties were aware that the Trusts were authorized to seek the relief requested in the Motion. Any attempts to characterize the prior statements of the Trust Administrator or the Creditors' Committee as promises that the Initial Budget could not be exceeded are without merit and should be disregarded.

### **III. Reply to the Third Assertion – There is Substantial Support for the Relief**

20. The Objectors assert that, despite its 32-page length, the Motion “fails to provide any detail about how or why [the Trust Administrator] has so greatly exceeded the approved budget or to articulate how these additional expenses will translate into actual benefits to the estates.” *See* Trustee Objection ¶ 4; Noteholder Objection ¶¶ 3, 4, 7, 11, 16;

New York State Objection ¶¶ 19-22. Such assertions are difficult to swallow given the Motion's length and the substantial text devoted to the issues that have confronted the Trusts since the Effective Date and are anticipated in the future. However, because the Trust Administrator endeavors to provide full transparency with respect to the operations of the Trusts (indeed, the GUC Trust files quarterly reports with the Court and the SEC in addition to periodic filings related to material events) this Reply is accompanied by three declarations which provide additional information supporting the request for relief.

21. As an initial matter, the Motion details many of the unforeseen issues that arose in 2011 and are anticipated to continue into 2012. In contrast to the Nova Scotia Noteholders' allegation that the Trust Administrator engaged only in a "simple recitation of factors" with respect to these issues (*see* Noteholder Objection ¶ 16), a detailed explanation of the costs incurred by the Trusts, and those likely to be incurred in the future, are provided in over 10 pages of text in the Motion.<sup>12</sup> *See* Motion pp. 13-17, 21-23, 28-29.

22. As further described in the Motion, the current and future costs and expenses of the GUC Trust are almost exclusively related to its primary functions: claims resolution, the distribution of New GM Securities to holders of Allowed General Unsecured Claims, and the wind-down of the Debtors' estates. *See* Motion ¶¶ 22-31. Indeed, approximately \$14.5 million of the \$17.8 million in New GM Securities sought to be sold to cover 2011-2012 administrative costs of the GUC Trust are related to such functions. *See* Exhibit B to Vanaskey Declaration. Given the prior successes of the GUC Trust from a claims resolution standpoint, the benefits associated with such costs are apparent. In the nine-month period ended December 2011, the GUC Trust resolved approximately 25% (\$2.5 billion) of the total Disputed General Unsecured Claims pending on the Effective Date. Motion ¶ 6 (as modified

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<sup>12</sup> As the Objectors have not objected to the requested relief as it pertains to Reporting and Transfer Costs, issues related to such costs are not addressed herein.

by n.6 *supra*). Of this \$2.5 billion in claims resolved, over \$2.34 billion were disallowed. *Id.* A cost-benefit analysis is included in the Declaration of Thomas A. Morrow, attached hereto as Exhibit G (the “**Morrow Declaration**”) and shows the significant benefit associated with the continuation of the claims resolution process.

23. With respect to the Avoidance Action Trust, the approximately \$13.7 million in New GM Securities which the Trust Administrator seeks to liquidate to cover administrative expenses substantially relate to the primary function of the Avoidance Action Trust: prosecution of the Term Loan Avoidance Action. *See* Exhibit C to Vanaskey Declaration. The remaining expenses include insurance, tax advice and corporate legal costs which together constitute the necessities to the continued existence of the Avoidance Action Trust. Given the sheer size of the potential \$1.5 billion cash recovery for the Debtors’ estates in the event of a successful resolution to the Term Loan Avoidance Action, the Trust Administrator submits that benefits associated with the \$13.7 million in requested relief (which represents less than 1% of the total potential cash recovery on the Term Loan Avoidance Action) significantly outweigh the associated costs.

24. If the requested relief with respect to the Avoidance Action Trust is denied, the Trust will be left with two unattractive alternatives, each of which will significantly reduce any potential recovery to its beneficiaries: (i) abandon the Term Loan Avoidance Action or (ii) obtain a loan secured by the Term Loan Avoidance Action. Abandonment has obvious repercussions, and given the contingent nature of the Term Loan Avoidance Action, any loan will likely result in a significant concession on the “upside” potential of the Term Loan Avoidance Action. As such, the Trust Administrator submits that the sale of New GM Securities requested in the Motion will provide the most significant benefit to the estates.

#### **IV. Reply to the Fourth Assertion – The Trusts Are Subject to Sufficient Oversight**

25. In an attempt to re-litigate objections raised, and overruled, in connection with

confirmation of the Plan, the Nova Scotia Noteholders and New York State assert that the Trusts lack sufficient controls and oversight and that the fees and expenses of Trust Professionals should be subject to the review of the U.S. Trustee and the Court (and possibly a fee examiner). *See* Noteholder Objection ¶¶ 4, 8, 24; New York State Objection ¶¶ 25-29. For the same reasons that this Court denied the objections of interested parties in connection with confirmation of the Plan, the Court should overrule the Noteholder Objection and New York State Objection now.

26. Prior to confirmation of the Plan, an objection was lodged by New York State which stated, in relevant part:

[T]he confirmation order should require... appointment of a fee examiner to oversee fees and expenses to be paid by the GUC Trust; Bankruptcy Court approval of such fees; compliance with the United States Trustee's Fee Guidelines and prior rulings of the Court; and imposition of appropriate sanctions upon professionals in the event that the fee examiner prevails in any disputes related to GUC Trust fees and expenses.

New York State Confirmation Objection ¶ 14. In response thereto, Wilmington Trust Company, then as proposed Trust Administrator, filed its Confirmation Reply which outlined the complete package of oversight and controls to which it, as Trust Administrator, and the Trusts are subject. *See* Confirmation Reply ¶¶ 4, 23-29. This recitation of the controls was further detailed orally by counsel to the Creditors' Committee at the Confirmation Hearing. Confirmation Hearing Tr. at 146:7-148:3. Following the Confirmation Hearing, the Court entered its Confirmation Decision, which specifically recounted and approved these procedures as appropriate, without the need for fee examiner or U.S. Trustee review and approval on an ongoing basis. Confirmation Decision pp. 9-10, 29.

27. This package of controls has not been altered since the Effective Date,<sup>13</sup> and continues to be implemented by the Trusts. The controls, which are more thoroughly

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<sup>13</sup> Notably, to the extent that the No-Action Relief is afforded by the Staff, the GUC Trust may be required to comply with the Sarbanes-Oxley Act of 2002, which will add further layers of controls and oversight over the GUC Trust.

addressed in the Vanaskey Declaration and the Phillips Declaration, include the following:

- Budget – An annual Budget is submitted to the Trust Monitor and the DIP Lenders prior to the beginning of each calendar year for approval. Once approved, all Trust Professionals are bound to their individual line entry and may not be paid any amount from Wind-Down Budget Cash in excess of their individual budgets. GUC Trust Agreement §§ 6.4, 2.6(c).
- Holdback – Each month, 10% of the amount billed by each Trust Professional is reserved and left unpaid by the Trust Administrator. As an incentive to remain under-budget, Trust Professionals that remain within their budgeted line item for the calendar year are entitled to receive payment of such held-back funds within 30 days following the end of the calendar year. Trust Professionals that are over-budget are not entitled to receive full payment of their invoices until the earlier of (i) the dissolution of the GUC Trust or (ii) the termination of such Trust Professional’s engagement by the GUC Trust. GUC Trust Agreement § 2.6(d).
- Trust Administrator/Trust Monitor/DIP Lender Review – Invoices of every Trust Professional must be submitted on a monthly basis to the GUC Trust Administrator, the GUC Trust Monitor and the DIP Lenders. The GUC Trust Administrator is prohibited from paying any invoices which are disputed by either the GUC Trust Monitor or the DIP Lenders. GUC Trust Agreement § 8.3(b).
- Court Approval of Sale of New GM Securities – The Trust Administrator is permitted to sell New GM Securities to cover current and anticipated budget overages of Trust Professionals, solely with the approval of the Court and on 20-days’ notice to the GUC Trust Monitor, the holders of Trust Units and the holders of Disputed General Unsecured Claims. GUC Trust Agreement §§ 6.1(b), 6.1(d).

See Vanaskey Dec. ¶¶ 9-17; Phillips Dec. ¶¶ 7-10.

28. The Trusts are in full compliance with the protocols approved by this Court; therefore, any suggestion that the Trust Professionals should submit fee applications to the Court, the U.S. Trustee or a fee examiner at this juncture is simply not appropriate or customary. The cases cited by the Nova Scotia Noteholders concern bankruptcy court review of pre-effective date chapter 7 trustee fees and the fees of professionals retained by a debtor under section 327 or 328 of the Bankruptcy Code. Similarly, the cases cited by New York State with respect to court review and approval of fees pursuant to section 1129(a)(4) of the Bankruptcy Code concern payments to be made by debtors on the effective date of a plan, not



by post-confirmation liquidating trusts. The Objectors' request for fee review therefore lacks any relevant authority. Further, the suggested alterations to the fee review structure are likely to engender additional litigation and, correspondingly, greater costs for the Trusts.

29. Most importantly, the current procedures have been successful, and there is thus no justification for changing them. Every Trust Professional that has exceeded the Initial Budget has been forced to defer 10% of its billed fees until the dissolution of the GUC Trust. No Trust Professional has received payment in excess of the Initial Budget. Every party in interest has had notice and an opportunity to object to the use of New GM Securities to satisfy the payment of Trust Professionals in excess of the Initial Budget. The objections of the Objectors are proof that the system works.

**V. Reply to the Fifth Assertion – The Increased Fees of the Trust Administrator and the Trust Monitor are Well Documented and Justified**

30. The Nova Scotia Noteholders create allusions of self-dealing as a further means to attack the requested relief. The Noteholder Objection repeatedly references the increased fees sought by the Trust Administrator and the Trust Monitor, alleging that such fees are not adequately documented and are, in effect, a disguised attempt to raid the store till. *See* Noteholder Objection ¶¶ 12, 13, 14, 16, 19. Neither allegation is supportable.

31. In anticipation of such allegations from holders of Disputed General Unsecured Claims, the proposed fee increases were not hidden in the Motion or buried in an aggregate line item in the attached Exhibits – on the contrary, they were specifically highlighted for the review of the Court and all interested parties. *See* Motion ¶¶ 42, 51-52, 55, Exhibit B, Exhibit C. Over 2 pages of text were devoted to the proposed fee increases for the Trust Administrator and Trust Monitor – no other individual Trust expense was so thoroughly addressed.

32. While the proposed increases to the Trust Administrator and Trust Monitor fees were highlighted in the Motion in part to dispel any notion of self-dealing, they were

also emphasized for another, more practical reason: they are completely justified. Both the Trust Administrator and the Trust Monitor submitted fee estimates in connection with the creation of the Initial Budget. These fee estimates were based on the resources anticipated to be devoted to the operations of the GUC Trust and the Avoidance Action Trust. However, neither the Trust Administrator nor the Trust Monitor was irrevocably bound by such fee proposals in the event that the work associated with managing and overseeing the Trusts substantially exceeded the assumptions underlying such proposals. Indeed, the Trust Agreements each provide that the Trust Administrator and the Trust Monitor are entitled to receive “fair and reasonable compensation” for their services, not compensation as provided in their fee proposals. *See* GUC Trust Agreement §§ 9.7, 11.5; Avoidance Action Trust Agreement §§ 9.7, 11.5.

33. As detailed further in the Vanaskey Declaration and the Phillips Declaration, the amount of man-hours necessary to properly manage and oversee the Trusts is substantially greater than initially anticipated. Both the Trust Administrator and the Trust Monitor have been required to add additional personnel, and increase the workloads of current personnel, in order to satisfy their required duties. The Trust Administrator submits that the proposed fee increases are justified as “fair and reasonable” compensation of both the Trust Administrator and the Trust Monitor and should be approved.

**VI. Reply to the Sixth Assertion – Holders of Disputed Claims Will Not be Unduly Harmed by the Sale of New GM Securities**

34. In their objections, the Nova Scotia Trustee and New York State each assert that the proposed sale of New GM Securities will increase the risk that holders of Disputed General Unsecured Claims will fail to receive a *pro rata* share of the Plan distribution in the event that such claims are allowed. *See* Trustee Objection ¶ 5; New York State Objection ¶¶ 17, 18. This analysis is based upon a flawed reading of the GUC Trust Agreement and should be dismissed.

35. Prior to the initial distribution to holders of Allowed General Unsecured Claims under the Plan, the GUC Trust established a reserve (the “**Reserve**”) of New GM Securities for the purposes of ensuring that holders of Disputed General Unsecured Claims, to the extent allowed in the future, would receive a *pro rata* distribution under the Plan. In order to calculate this Reserve, the Trust Administrator first segregated New GM Securities in an amount that would be distributable to all holders of Disputed General Unsecured Claims as liquidated by the Debtors’ schedules or timely filed proofs of claim. With respect to unliquidated claims and partially unliquidated claims, the Trust Administrator calculated the Reserve based upon the estimations of the Court as set forth in its *Order Granting Motion Establishing Claims Reserves* dated March 4, 2011 (Docket No. 9591), and its *Order Granting Motion Estimating Maximum Amount of Certain Claims for Purposes of Establishing Claims Reserves* dated March 23, 2011 (Docket No. 9877) (together, the “**Estimation Orders**”). When any Disputed General Unsecured Claim is disallowed, the New GM Securities held in the Reserve which are associated with such claim are released for distribution to holders of Allowed General Unsecured Claims. Such released securities are described in the GUC Trust Agreement as “**Excess GUC Trust Distributable Assets.**”

36. The GUC Trust Agreement provides that any of the New GM Securities “held-back” (and ultimately liquidated) for purposes of funding current or future liabilities of the GUC Trust are deducted from the Excess GUC Trust Distributable Assets only, while the Reserve remains intact. *See* GUC Trust Agreement §§1.1(x), 5.4. Under no circumstances are the New GM Securities held in the Reserve utilized for the satisfaction of fees and expenses of the GUC Trust in the manner requested in the Motion. As such, it is the holders of Allowed General Unsecured Claims (i.e., holders of Trust Units) that are directly affected by the requested relief, not the holders of Disputed General Unsecured Claims. As the GUC Trust Agreement requires distributions of Excess GUC Trust Distributable Assets to be made

evenly among holders of Trust Units (*see* GUC Trust Agreement § 5.4), such holders will be affected by the proposed sale of New GM Securities evenly.

37. The provision of the GUC Trust Agreement cited by the Nova Scotia Trustee for the proposition that its Disputed General Unsecured Claim could be discharged if New GM Securities are insufficiently reserved (§5.3(c)) is inapposite. That provision captures the scenario where the Estimation Orders were inaccurate and resulted in the under-estimation of unliquidated claims. In such unlikely scenario, the Reserve could be insufficient to satisfy all Disputed General Unsecured Claims, and any such remaining claims upon exhaustion of the Reserve would be discharged. But, as discussed above, the relief requested in the Motion will have no effect on the Reserve – as such, the sale of any New GM Securities from the Excess GUC Trust Distributable Assets cannot increase the risk that the Reserve will be insufficient to satisfy Disputed General Unsecured Claims that are ultimately allowed.

**VII. Reply to the Seventh Assertion – The GUC Trust Has Engaged in Efficient Litigation of Claims**

38. In their final salvo, the Nova Scotia Noteholders argue that the GUC Trust has inefficiently squandered its resources by litigating meritorious claims, such as the claims of the Nova Scotia Noteholders. *See* Noteholder Objection ¶¶ 17, 20-22. While the GUC Trust Administrator understands that the Nova Scotia Noteholders are unhappy with the level of discovery sought by the GUC Trust in connection with its objection to the claims of the Nova Scotia Trustee and the Nova Scotia Noteholders (the “**Nova Scotia Contested Matter**”), these concerns should be addressed via motion practice and in status conferences concerning the Nova Scotia Contested Matter, not the Trust Administrator’s Motion to sell New GM Securities. The GUC Trust is currently litigating more than 100 Disputed General Unsecured Claims. Were each defendant to follow the lead of the Nova Scotia Noteholders and use this Motion as a podium to address concerns related to their individual claims objections, the hearing on this Motion would be unnecessarily lengthy, wasteful and disruptive.

39. Moreover, the assertions of the Nova Scotia Noteholders are simply incorrect. The GUC Trust has approached each claim objection, including its objections to the claims of the Objectors, with efficiency in mind. The Nova Scotia Noteholders complain of the spirited objection of the GUC Trust to their claims – but that is exactly the job the Trust Administrator has been tasked to perform. As noted in the Confirmation Decision:

Of course, no claimant may appropriately object to the appointment of any post-Effective Date administrator out of concern that such administrator will litigate hard against it. When the claim warrants an objection, that is precisely what any such administrator is supposed to do.

Confirmation Decision p. 31. For these reasons, the objections of the Nova Scotia Noteholders should be rejected.

### **CONCLUSION**

For the foregoing reasons and the reasons set forth in the Motion, the GUC Trust Administrator and the Avoidance Action Trust Administrator respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit A and grant such other and further relief as may be deemed just and proper.

Dated: New York, New York  
February 23, 2012

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Matthew J. Williams

Matthew J. Williams  
Mitchell Karlan  
Joshua Weisser  
Keith R. Martorana  
200 Park Avenue  
New York, NY 10166-0193  
(212) 351-4000

*Attorneys for the Motors Liquidation Company  
GUC Trust and the Motors Liquidation  
Company Avoidance Action Trust*

# **REPLY EXHIBIT A**

[Proposed Order]

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

-----X	
<b>In re</b>	: Chapter 11 Case No.
	: :
<b>MOTORS LIQUIDATION COMPANY, et al.,</b>	: <b>09-50026 (REG)</b>
<b>f/k/a General Motors Corp., et al.</b>	: :
	: <b>(Jointly Administered)</b>
<b>Debtors.</b>	: :
	: :
-----X	

**ORDER AUTHORIZING (I) THE GUC TRUST ADMINISTRATOR TO LIQUIDATE NEW GM SECURITIES FOR THE PURPOSE OF FUNDING FEES, COSTS AND EXPENSES OF THE GUC TRUST AND THE AVOIDANCE ACTION TRUST, AND (II) THE AVOIDANCE ACTION TRUST ADMINISTRATOR TO AMEND THE AVOIDANCE ACTION TRUST AGREEMENT**

Upon the motion, dated January 20, 2012 (the “**Motion**”)<sup>1</sup> of Wilmington Trust Company (i) in its capacity as trust administrator and trustee (in such capacity, the “**GUC Trust Administrator**”) of the Motors Liquidation Company GUC Trust (the “**GUC Trust**”), as established under the Debtors’ Second Amended Joint Chapter 11 Plan dated as of March 18, 2011 (Docket No. 9836) (as confirmed, the “**Plan**”) of the above-captioned post-effective date debtors (the “**Debtors**”) seeking entry of an Order pursuant to sections 1142 and 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 6004(h) of the Federal Rules of Bankruptcy Procedure, and the GUC Trust Agreement, approving the GUC Trust’s sale of New GM Securities to fund accrued and expected fees, costs and expenses of the GUC Trust and the Avoidance Action Trust, and (ii) in its capacity as trust administrator and trustee (in such capacity, the “**Avoidance Action Trust Administrator**”) of the Motors Liquidation Company Avoidance Action Trust (the “**Avoidance Action Trust**”), as established under the Plan, seeking entry of an Order pursuant to sections 1142 and 105(a) of the Bankruptcy Code, Rule 6004(h) of the Federal Rules of Bankruptcy Procedure and the

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion

Avoidance Action Trust Agreement, approving an amendment to the Avoidance Action Trust Agreement; and any objections to the Motion having been settled, resolved, withdrawn or overruled; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors creditors and estates; and it further appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and after due deliberation thereon, and good and sufficient cause appearing therefor:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

ORDERED, that the relief requested in the Motion, as modified pursuant to the reply filed by the GUC Trust Administrator and the Avoidance Action Trust Administrator in support of the Motion, is granted in its entirety; and it is further

ORDERED, that any objections raised to the relief requested in the Motion are hereby overruled; and it is further

ORDERED, that, pursuant to Sections 6.1(b) and (d) of the GUC Trust Agreement, the GUC Trust Administrator is authorized to liquidate the Reserved Securities to satisfy GUC Trust administrative fees, costs and expenses incurred in 2011 and estimated for 2012, all as set forth in the Revised GUC Trust Budget; and it is further

ORDERED, that, pursuant to Section 6.1(c) of the GUC Trust Agreement, the GUC Trust Administrator is authorized to liquidate the Reserved Securities to satisfy the Reporting and Transfer Costs incurred in 2011 and which could arise in connection with attempting to obtain and/or complying with the No-Action Relief in 2012, all as set forth in the Revised GUC Trust Budget; and it is further

ORDERED, that the GUC Trust Administrator is authorized, but not required, to liquidate sufficient New GM Securities to satisfy Avoidance Action Trust fees, costs and expenses estimated for 2012, 2013 and 2014, all as reflected in the Revised Avoidance Action Trust Budget (the “**Avoidance Action Shares Liquidation**”); and it is further



ORDERED, that, following the Avoidance Action Shares Liquidation, if any, the GUC Trust Administrator is authorized, but not required, to transfer the cash proceeds (in the form of a loan, contribution or otherwise) of the Avoidance Action Shares Liquidation, net of any applicable costs, fees, expenses and taxes payable in respect thereof, to the Avoidance Action Trust free and clear of any liens, claims and encumbrances (other than a remainder interest of the GUC Trust as described in the Avoidance Action Trust Amendment) (the “**Avoidance Action Cash Transfer**”); provided, however, that the GUC Trust Administrator will not transfer any cash or New GM Securities to the Avoidance Action Trust until the Internal Revenue Service confirms that such transfers would not affect its prior rulings regarding the tax characterization of (i) the 2009 section 363 sale by MLC and MLC’s subsequent liquidation and (ii) the GUC Trust as a “disputed ownership fund” within the meaning of Treasury Regulation section 1.468B-9; and it is further

ORDERED, that, notwithstanding anything to the contrary in the GUC Trust Agreement, the New GM Securities that are subject to the Avoidance Action Shares Liquidation shall be treated being “reserved” and liquidated, pursuant to Section 6.1(b) of the GUC Trust Agreement for any distribution calculation required to be performed under the GUC Trust Agreement; and it is further

ORDERED, that, notwithstanding anything to the contrary in the GUC Trust Agreement, the Avoidance Action Cash Transfer, if delivered in the form of a loan or other investment, shall be deemed a “Permissible Investment” by the GUC Trust, as that term is defined in the GUC Trust Agreement, for all purposes under the GUC Trust Agreement; and it is further

ORDERED, that the Avoidance Action Trust Amendment, in substantially the form attached hereto as Annex 1, is hereby approved, and the Avoidance Action Trust

Administrator and Avoidance Action Trust Monitor are authorized to execute and effect the Avoidance Action Trust Amendment; and it is further

ORDERED, that nothing herein shall be deemed to prohibit the GUC Trust Administrator from seeking additional Court authority to liquidate New GM Securities if the actual fees, costs or expenses exceed the currently estimated fees, costs or expenses or to fund fees, costs or expenses in 2012, 2013 or 2014; and it is further

ORDERED, that, when liquidating the New GM Securities pursuant to this Order, the GUC Trust Administrator shall comply with the procedures set forth in the GUC Trust Agreement (solely with respect to the liquidation of the Reserved Securities) and shall be entitled to all protections, immunities and indemnities applicable to the GUC Trust Administrator therein; and it is further

ORDERED, that the terms of this Order shall supersede any inconsistent or contrary provisions contained in the GUC Trust Agreement or the Avoidance Action Trust Agreement; and it is further

ORDERED, that, notwithstanding the possible applicability of Bankruptcy Rule 6004(h), this Order shall be effective immediately upon entry; and it is further

ORDERED, that this Court shall retain jurisdiction of all matters and disputes arising in connection with or related to the interpretation or implementation of this Order, any liquidation of New GM Securities in connection herewith, the GUC Trust Agreement or the Avoidance Action Trust Agreement.

Dated: \_\_\_\_\_, 2012  
New York, New York

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UNITED STATES BANKRUPTCY JUDGE

**Annex 1**

**[Avoidance Action Trust Amendment]**

**ATTACHED TO MOTION**

**REPLY EXHIBIT B**

[Proposed Order - Blackline]

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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<b>In re</b>	Chapter 11 Case No.
<b>MOTORS LIQUIDATION COMPANY, <i>et al.</i>, f/k/a General Motors Corp., <i>et al.</i></b>	<b>09-50026 (REG)</b>
<b>Debtors.</b>	<b>(Jointly Administered)</b>
-----X	

**ORDER AUTHORIZING (I) THE GUC TRUST ADMINISTRATOR TO  
~~(A) LIQUIDATE NEW GM SECURITIES FOR THE PURPOSE OF FUNDING FEES,  
 COSTS AND EXPENSES OF THE GUC TRUST AND THE AVOIDANCE ACTION  
 TRUST, AND (B) TRANSFER NEW GM SECURITIES TO THE AVOIDANCE  
 ACTION TRUST FOR THE PURPOSE OF FUNDING FUTURE TAX LIABILITIES,~~  
 AND (II) THE AVOIDANCE ACTION TRUST ADMINISTRATOR  
TO AMEND THE AVOIDANCE ACTION TRUST AGREEMENT**

Upon the motion, dated January 20, 2012 (the “**Motion**”)<sup>1</sup> of Wilmington Trust Company (i) in its capacity as trust administrator and trustee (in such capacity, the “**GUC Trust Administrator**”) of the Motors Liquidation Company GUC Trust (the “**GUC Trust**”), as established under the Debtors’ Second Amended Joint Chapter 11 Plan dated as of March 18, 2011 (Docket No. 9836) (as confirmed, the “**Plan**”) of the above-captioned post-effective date debtors (the “**Debtors**”) seeking entry of an Order pursuant to sections 1142 and 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 6004(h) of the Federal Rules of Bankruptcy Procedure, and the GUC Trust Agreement, approving ~~(A)~~ the GUC Trust’s sale of New GM Securities to fund accrued and expected fees, costs and expenses of the GUC Trust and the Avoidance Action Trust, ~~and (B) the GUC Trust’s transfer of New GM Securities to the Avoidance Action Trust to fund potential future tax liabilities of the Avoidance Action Trust,~~ and (ii) in its capacity as trust administrator and trustee (in such capacity, the “**Avoidance Action Trust Administrator**”) of the Motors Liquidation Company Avoidance Action Trust

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion

(the “**Avoidance Action Trust**”), as established under the Plan, seeking entry of an Order pursuant to sections 1142 and 105(a) of the Bankruptcy Code, Rule 6004(h) of the Federal Rules of Bankruptcy Procedure and the Avoidance Action Trust Agreement, approving an amendment to the Avoidance Action Trust Agreement; and any objections to the Motion having been settled, resolved, withdrawn or overruled; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors creditors and estates; and it further appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and after due deliberation thereon, and good and sufficient cause appearing therefor:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

ORDERED, that the relief requested in the Motion, as modified pursuant to the reply filed by the GUC Trust Administrator and the Avoidance Action Trust Administrator in support of the Motion, is granted in its entirety; and it is further

ORDERED, that any objections raised to the relief requested in the Motion are hereby overruled; and it is further

ORDERED, that, pursuant to Sections 6.1(b) and (d) of the GUC Trust Agreement, the GUC Trust Administrator is authorized to liquidate the Reserved Securities to satisfy GUC Trust administrative fees, costs and expenses incurred in 2011 and estimated for 2012, all as set forth in the Revised GUC Trust Budget; and it is further

ORDERED, that, pursuant to Section 6.1(c) of the GUC Trust Agreement, the GUC Trust Administrator is authorized to liquidate the Reserved Securities to satisfy the Reporting and Transfer Costs incurred in 2011 and which could arise in connection with attempting to obtain and/or complying with the No-Action Relief in 2012, all as set forth in the Revised GUC Trust Budget; and it is further

ORDERED, that the GUC Trust Administrator is authorized, but not required, to liquidate sufficient New GM Securities to satisfy Avoidance Action Trust fees, costs and expenses estimated for 2012, 2013 and 2014, all as reflected in the Revised Avoidance Action Trust Budget (the “**Avoidance Action Shares Liquidation**”); and it is further

ORDERED, that ~~as soon as practicable~~, following the Avoidance Action Shares Liquidation, if any, the GUC Trust Administrator is authorized, but not required, to transfer the cash proceeds (in the form of a loan, contribution or otherwise) of the Avoidance Action Shares Liquidation, net of any applicable costs, fees, expenses and taxes payable in respect thereof, to the Avoidance Action Trust free and clear of any liens, claims and encumbrances (other than a remainder interest of the GUC Trust as described in the Avoidance Action Trust Amendment) (the “**Avoidance Action Cash Transfer**”); ~~and it is further ORDERED~~ provided, however, that the GUC Trust Administrator ~~is authorized to transfer to the Avoidance Action Trust (in the form of a loan, contribution or otherwise), free and clear of any liens, claims and encumbrances (other than a remainder interest of the GUC Trust as described in the Avoidance Action Trust Amendment), 355,783 shares of New GM Common Stock and 646,878 New GM Warrants (consisting of 323,439 New GM \$10.00 Warrants and 323,439 New GM \$18.33 Warrants) for the purposes of funding any potential Avoidance Action Trust Tax Liability (the “**Avoidance Action Share Transfer**”)~~ will not transfer any cash or New GM Securities to the Avoidance Action Trust until the Internal Revenue Service confirms that such transfers would not affect its prior rulings regarding the tax characterization of (i) the 2009 section 363 sale by MLC and MLC’s subsequent liquidation and (ii) the GUC Trust as a “disputed ownership fund” within the meaning of Treasury Regulation section 1.468B-9; and it is further

ORDERED, that, notwithstanding anything to the contrary in the GUC Trust Agreement, the New GM Securities that are subject to the Avoidance Action Shares Liquidation ~~and the Avoidance Action Share Transfer~~ shall be treated being “reserved” and

liquidated, pursuant to Section 6.1(b) of the GUC Trust Agreement for any distribution calculation required to be performed under the GUC Trust Agreement; and it is further

ORDERED, that, notwithstanding anything to the contrary in the GUC Trust Agreement, the Avoidance Action Cash Transfer ~~and the Avoidance Action Share Transfer~~, if delivered in the form of a loan or other investment, shall be deemed a “Permissible Investment” by the GUC Trust, as that term is defined in the GUC Trust Agreement, for all purposes under the GUC Trust Agreement; and it is further

ORDERED, that the Avoidance Action Trust Amendment, in substantially the form attached hereto as Annex 1, is hereby approved, and the Avoidance Action Trust Administrator and Avoidance Action Trust Monitor are authorized to execute and effect the Avoidance Action Trust Amendment; and it is further

ORDERED, that nothing herein shall be deemed to prohibit the GUC Trust Administrator from seeking additional Court authority to liquidate New GM Securities if the actual fees, costs or expenses exceed the currently estimated fees, costs or expenses or to fund fees, costs or expenses in 2012, 2013 or 2014; and it is further

ORDERED, that, when liquidating the New GM Securities pursuant to this Order, the GUC Trust Administrator shall comply with the procedures set forth in the GUC Trust Agreement (solely with respect to the liquidation of the Reserved Securities) and shall be entitled to all protections, immunities and indemnities applicable to the GUC Trust Administrator therein; and it is further

ORDERED, that the terms of this Order shall supersede any inconsistent or contrary provisions contained in the GUC Trust Agreement or the Avoidance Action Trust Agreement; and it is further

ORDERED, that, notwithstanding the possible applicability of Bankruptcy Rule 6004(h), this Order shall be effective immediately upon entry; and it is further



ORDERED, that this Court shall retain jurisdiction of all matters and disputes arising in connection with or related to the interpretation or implementation of this Order, any liquidation of New GM Securities in connection herewith, the GUC Trust Agreement or the Avoidance Action Trust Agreement.

Dated: \_\_\_\_\_, 2012  
New York, New York

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

Document comparison by Workshare Professional on Thursday, February 23, 2012 10:04:31 AM

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Format changed	0
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# **REPLY EXHIBIT C**

[New York State Objection Chart]

**Response to Certain Arguments of State of New York**

New York State Objection	Response
<p>The relief sought with respect to the transfer of \$17 million of New GM Securities to the Avoidance Action Trust to cover a potential future tax liability is not ripe. New York State Objection ¶¶ 15-16.</p>	<p>The request for this relief has been withdrawn without prejudice. <i>See</i> Reply ¶ 10, n. 7.</p>
<p>The relief sought with respect to the sale of New GM Securities to fund fees and expenses related to the No-Action Relief is not ripe. New York State Objection ¶¶ 15-16.</p>	<p>The request to sell New GM Securities to fund “future projected” Reporting and Transfer Costs is a right specifically afforded to the GUC Trust Administrator by the GUC Trust Agreement. <i>See</i> GUC Trust Agreement § 6.1(c). As such, the relief requested is currently ripe. As noted in the Motion, to the extent that any of the proceeds of the sales of New GM Securities related to the Reporting and Transfer Costs are deemed unnecessary, such funds will be distributed to holders of Trust Units (<i>see</i> Motion ¶ 46 n. 14).</p> <p>A significant portion of what constitutes Reporting and Transfer Costs are unrelated to the No-Action Relief and will continue to be incurred regardless of whether the Staff grants the No-Action Relief (<i>see</i> Motion ¶¶ 10, 32, 44 – components of Reporting and Transfer Costs include the Creditors’ Committee’s ongoing litigation of the Term Loan Ownership Ruling and application to the IRS for a private letter ruling). As such, the relief requested with respect to these fees, costs and expenses are ripe for adjudication.</p> <p>With respect to fees and costs directly associated with the No-Action Relief, certain of these costs have already been incurred in preparing for the potential grant of No-Action Relief, and are thus ripe for adjudication. <i>See</i> Motion ¶¶ 22, 32. With respect to anticipated future fees and costs directly associated with the No-Action Relief, expenses are and will continue to be incurred in connection with negotiations with the SEC and preparation of reporting obligations and additional internal controls. <i>See</i> Motion ¶ 45.</p>
<p>The Motion essentially seeks to amend the Plan, Confirmation Order, GUC Trust Agreement and Initial Budget. Under the guise of § 1142(b) of the</p>	<p>The Motion does not seek to amend the Plan, Confirmation Order, GUC Trust Agreement or Initial Budget. Rather, the Motion seeks to implement the procedures that were specifically approved by this Court for funding the current and projected cash needs of the Trusts in excess of the Initial Budget. <i>See</i> Confirmation Order ¶ 15.</p>

New York State Objection	Response
<p>Bankruptcy Code, the GUC Trust attempts to obtain relief that is not specifically provided in the Plan or Confirmation Order. New York State Objection ¶ 16.</p>	<p>Section 1142(b) of the Bankruptcy Code provides statutory support for the relief requested by the Motion because it permits the Court to authorize the “transfer of property dealt with by a confirmed plan, and to perform any other act... that is necessary for the consummation of the plan.” 11 U.S.C. § 1142(b). The proposed sale of New GM Securities to fund the current and projected fees, costs and expenses of the Trusts is “dealt with” under the Plan,(the Confirmation Order expressly provides the GUC Trust Administrator with the authority to sell New GM Securities for such purposes:</p> <p style="padding-left: 40px;">The GUC Trust Agreement provides that the GUC Trust Administrator or Post-Effective Date MLC, as applicable, may sell New GM Securities that are held by the GUC Trust or Post-effective Date MLC, as applicable, under certain limited circumstances, such as to fund Reporting and Transfer Costs (as defined in the GUC Trust Agreement) and where the Wind-Down Budget Cash (as defined in the GUC Trust Agreement) is not sufficient to satisfy the current and projected fees, costs, and expenses of the GUC Trust.</p> <p>Confirmation Order ¶ 15.</p>
<p>The request of authority to liquidate a 10% price fluctuation and contingency reserve, if necessary, is inappropriate because holders of Disputed General Unsecured Claims have not, and will not, benefit from the same protections against disparate treatment. New York State Objection ¶ 23-24.</p>	<p>There is no disparate treatment among holders of Allowed General Unsecured Claims. The GUC Trust distributes property, in the form of New GM Securities, on a <i>pro rata</i> basis among all holders of Allowed General Unsecured Claims regardless of when such claims are allowed. The value of such New GM Securities at the time of distribution is not relevant to the GUC Trust’s stated purpose of making distributions of property pursuant to the Plan evenly among all holders of Allowed Class 3 General Unsecured Claims.</p> <p>The concerns of New York State are informed by a basic misunderstanding of the relative rights of holders of claims versus Trust Professionals. Holders of Allowed General Unsecured Claims are entitled to receive property (New GM Securities) under the Plan, with no regard to its value. By contrast, Trust Professionals are entitled to receive fair and reasonable compensation for their services, priced at a specific value. The 10% price fluctuation/contingency reserve is not a “protection” for Trust Professionals – they will be entitled to the value of their services regardless of the New GM price fluctuations. Rather, the 10% price fluctuation is intended to avoid the need of the GUC Trust to file another motion seeking authority to liquidate New GM Securities in the near future in the event that the</p>

New York State Objection	Response
	price of such New GM Securities decreased significantly between January 20, 2012 (the date the Motion was filed) and February 28, 2012 (the hearing date of the Motion).
Rule 6004(h) is inapplicable to the requested relief, and therefore a waiver of the stay is inappropriate. New York State Objection ¶ 30.	<p>The Trust Administrator agrees that the stay imposed by Rule 6004(h) of the Federal Rules of Bankruptcy Procedure is inapplicable. As such, the Trust Administrator should be permitted to exercise its authority pursuant to the proposed order immediately upon entry. However, the Trust Administrator requested the Rule 6004(h) waiver out of an abundance of caution in the event that any party in interest were to argue that the relief requested in the Motion constituted the “use or sale” of property of the estate.</p> <p>Despite the existence of the 10% price fluctuation reserve, a waiver of the stay imposed by Rule 6004(h), in the event that such stay is applicable, is warranted. Any negative movement in the price of New GM Securities during any applicable stay will increase the likelihood that the Trust Administrator will need to utilize the 10% price fluctuation reserve. As discussed in the Motion, the Trust Administrator will only liquidate the 10% price fluctuation reserve to the extent necessary. Motion ¶ 14, n. 8. As such, a waiver of the stay imposed by Rule 6004(h), to the extent applicable, will benefit the holders of Allowed General Unsecured Claims.</p>

# **REPLY EXHIBIT D**

[Bondholder Notice]



**WILMINGTON  
TRUST**

Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, DE 19890-0001

**ALL DEPOSITORIES, NOMINEES, BROKERS AND OTHERS:  
PLEASE FACILITATE THE TRANSMISSION OF THIS NOTICE  
TO ALL BENEFICIAL OWNERS.**

**NOTICE  
TO HOLDERS OF**

**MOTORS LIQUIDATION COMPANY  
(f/k/a GENERAL MOTORS COMPANY)**

- 9.40% Debentures due 2021 (CUSIP No. 370442AN5)**
- 8.80% Notes due 2021 (CUSIP No. 370442AJ4)**
- 7.40% Debentures due 2025 (CUSIP No. 370442AR6)**
- 9.4% Medium Term Notes due 2021 (CUSIP No. 37045EAG3)**
- 9.45% Medium Term Notes due 2011 (CUSIP No. 37045EAS7)**
- 7.75% Discount Debentures due March 15, 2036 (CUSIP No. 370442AT2)**
- 7.70% Debentures due April 15, 2016 (CUSIP No. 370442AU9)**
- 8.10% Debentures due June 15, 2024 (CUSIP No. 370442AV7)**
- 6.75% Debentures due May 1, 2028 (CUSIP No. 370442AZ8)**
- 7.20% Notes due January 15, 2011 (CUSIP No. 370442BB0)**
- 7.375% Senior Notes due May 23, 2048 (CUSIP No. 370442BQ7)**
- 8.375% Senior Debentures due July 15, 2033 (CUSIP No. 370442BT1)**
- 8.250% Senior Debentures due July 15, 2023 (CUSIP No. 370442BW4)**
- 7.125% Senior Notes due July 15, 2013 (CUSIP No. 370442BS3)**
- 7.25% Quarterly Interest Bonds due April 15, 2041 (CUSIP No. 370442816)**
- 7.25% Senior Notes due July 15, 2041 (CUSIP No. 370442774)**
- 7.375% Senior Notes due October 1, 2051 (CUSIP No. 370442766)**
- 7.25% Senior Notes due February 15, 2052 (CUSIP No. 370442758)**
- 4.50% Series A Convertible Senior Debentures due March 6, 2032 (CUSIP No. 370442741)**
- 5.25% Series B Convertible Senior Debentures due March 6, 2032 (CUSIP No. 370442733)**
- 7.375% Senior Notes due May 15, 2048 (CUSIP No. 370442725)**
- 6.25% Series C Convertible Senior Debentures due July 15, 2033 (CUSIP No. 370442717)**
- 7.50% Senior Notes due July 1, 2044 (CUSIP No. 370442121)**
- 1.50% Series D Convertible Senior Debentures due June 1, 2009 (CUSIP No. 370442691)<sup>1</sup>**

**January 26, 2012**

Reference is made (i) to the Indenture dated as of November 15, 1990, as amended from time to time (the "1990 Indenture"), between Motors Liquidation Company (formerly known as General Motors Corporation) (the "Company") and Wilmington Trust Company, in its capacity as successor indenture trustee to Citibank, N.A. (the "1990 Indenture Trustee"), (ii) to the Indenture dated as of December 7, 1995, as amended from time to time (the "1995 Indenture," and together with the 1990 Indenture, the "Indentures"), between the Company and Wilmington Trust Company, in its capacity as successor indenture trustee to Citibank, N.A. (the "1995 Indenture Trustee," and together with the 1990 Indenture Trustee, the "Indenture Trustee"), and (iii) to the

<sup>1</sup> The CUSIP numbers appearing herein have been included solely for the convenience of the holders of the Notes. Wilmington Trust Company assumes no responsibility for the selection or use of such numbers and makes no representations as to the correctness of the CUSIP numbers appearing herein.



Second Amended Joint Chapter 11 Plan dated as of March 18, 2011 of the Company and certain of its affiliates, which was confirmed by an order of the Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") entered on March 29, 2011 (as so confirmed, the "Plan") and which became effective on March 31, 2011 (the "Effective Date").<sup>2</sup> The above-described notes, bonds and debentures (collectively, the "Notes") were issued pursuant to the Indentures. Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan.

The Plan provides for the establishment of (i) the Motors Liquidation Company GUC Trust (the "GUC Trust") to implement the Plan, including by distributing New GM Securities and resolving outstanding Disputed General Unsecured Claims, and (ii) the Motors Liquidation Company Avoidance Action Trust (the "Avoidance Action Trust"), to liquidate and distribute its assets, which consist predominantly of the Term Loan Avoidance Action (as defined in the Plan).

Wilmington Trust Company, as Indenture Trustee, hereby informs you that, on January 20, 2012, the trustee and trust administrator of the GUC Trust and the trustee and trust administrator of the Avoidance Action Trust jointly filed a motion (the "Motion") with the Bankruptcy Court seeking to authority to, among other things, sell and/or transfer certain New GM Securities for the purposes of funding accrued and projected costs, fees and expenses of the GUC Trust and the Avoidance Action Trust. A copy of the Motion is available on the website maintained by the GUC Trust: [www.mlcgucustrust.com](http://www.mlcgucustrust.com).

The Motion is currently scheduled to be heard by the Bankruptcy Court on **February 9, 2012 at 9:45 a.m.**, with an objection deadline of **February 2, 2012 at 4:00 p.m.**<sup>3</sup>

Except as set forth in the Plan, the Indentures ceased to be of further force and effect on the Effective Date, and Wilmington Trust Company has no further obligations as Indenture Trustee thereunder, except as set forth in the Plan.

Wilmington Trust Company has prepared this communication in its capacity as Indenture Trustee, based upon information supplied to it without independent investigation. You should not rely on Wilmington Trust Company as your sole source of information. Wilmington Trust Company makes no recommendations and gives no investment or legal advice herein, and holders of Notes are urged to consult with their own advisors concerning the Notes and the Plan

Should any holder of Notes have any questions regarding this notice, please contact Wilmington Trust Company as follows:

Wilmington Trust Company  
Rodney Square North  
1110 North Market Street  
Wilmington, Delaware, 19890-1615  
Phone No.: (866) 521-0079  
Fax No.: (302) 636-4140

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<sup>2</sup> Information on the bankruptcy proceedings, including a copy of the Plan, can be found at: <http://www.motorsliquidationdocket.com/>.

<sup>3</sup> Please note the times and dates set forth herein are subject to change without further notice.

Wilmington Trust may conclude that a specific response to particular inquiries from individual holders of Notes is not consistent with its duties to provide equal and full dissemination to all holders of Notes.

Very Truly Yours,

Wilmington Trust Company,  
as Indenture Trustee

# **REPLY EXHIBIT E**

[Vanaskey Declaration]

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

**In re:**

**MOTORS LIQUIDATION COMPANY., *et al.*  
(f/k/a General Motors Corp., *et al.*)**

**Debtors.**

Chapter 11

Case No. 09-50026 (REG)

(Jointly Administered)

**DECLARATION OF DAVID A. VANASKEY JR. IN SUPPORT OF THE MOTION OF WILMINGTON TRUST COMPANY, (I) AS GUC TRUST ADMINISTRATOR, TO (A) LIQUIDATE NEW GM SECURITIES FOR THE PURPOSE OF FUNDING FEES, COSTS AND EXPENSES OF THE GUC TRUST AND AVOIDANCE ACTION TRUST, AND (B) TRANSFER NEW GM SECURITIES TO THE AVOIDANCE ACTION TRUST FOR THE PURPOSE OF FUNDING FUTURE TAX LIABILITIES AND (II) AS AVOIDANCE ACTION TRUST ADMINISTRATOR, TO APPROVE AN AMENDMENT TO THE AVOIDANCE ACTION TRUST AGREEMENT**

I, David A. Vanaskey Jr. declare:

1. I am a Vice President of Wilmington Trust Company (“WTC”), located at Rodney Square North, 1110 North Market Street, Wilmington, Delaware, 19890-1615, and am duly authorized to submit this declaration (the “**Declaration**”) on behalf of WTC, not in its individual capacity, but solely in its capacities as GUC Trust Administrator and Avoidance Action Trust Administrator, as established under the Plan.

2. I submit this Declaration in support of the motion (the “**Motion**”)<sup>1</sup> submitted by (i) the GUC Trust Administrator seeking entry of an Order approving (A) the GUC Trust’s sale of New GM Securities to fund accrued and expected fees, costs and expenses of the GUC Trust and the Avoidance Action Trust, and (B) the GUC Trust’s transfer of New GM Securities to the

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Motion.

Avoidance Action Trust to fund potential future tax liabilities of the Avoidance Action Trust, and (ii) the Avoidance Action Trust Administrator, seeking entry of an Order approving an amendment to the Avoidance Action Trust Agreement.

3. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would competently testify thereto.

### **Background and the Budget**

4. I am a Vice President of WTC with over 25 years of experience in its financial services group, including 20 years specializing in capital markets, defaults and corporate restructuring. In such capacity, I and WTC teams overseen by me have directed multiple accounts and products in varying contexts, including chapter 11 reorganizations. Specifically, I have provided services in connection with the following major bankruptcy cases: (a) *In re UAL Corp.*; (b) *In re US Airways Group, Inc.*; (c) *In re Baldwin*; (d) *In re Delta Air Lines, Inc.*; (e) *In re Solutia Inc.*; (f) *In re Mesa Air Group, Inc.*; (g) *In re Circuit City Stores, Inc.*; and (h) *In re General Motors Corporation*.

5. WTC's initial role in the Debtors' Chapter 11 Cases was serving as successor indenture trustee for approximately \$23 billion in U.S. dollar denominated unsecured notes, bonds and debentures (collectively, the "**Bonds**") issued by Motors Liquidation Company, formerly known as General Motors Corporation ("**MLC**").<sup>2</sup>

6. On March 29, 2011, this Court entered an order confirming MLC's liquidating Plan, and appointing WTC as GUC Trust Administrator and Avoidance Action Trust Administrator. A budget for the GUC Trust proposed by the Debtors, and an administrative fund

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<sup>2</sup> WTC was the successor Indenture Trustee to Citibank, N.A., under two indenture agreements with MLC pursuant to which MLC issued senior unsecured debt securities: (i) a Senior Indenture, dated as of December 7, 1995, as amended, and (ii) a Senior Indenture, dated as of November 15, 1990.

for the Avoidance Action Trust, were similarly approved as part of the Plan (collectively, the “**Initial Budget**”). Incorporated into the back-up to the Initial Budget was an estimate of WTC’s fees and expenses as GUC Trust Administrator and Avoidance Action Trust Administrator.

7. I was intimately involved with the calculation, and therefore have direct personal knowledge, of WTC’s estimated fees and expenses incorporated into the Initial Budget. I was not, however, the primary author of the Initial Budget. Upon information and belief, the Initial Budget was drafted by and agreed to by and among representatives and professionals of United States Department of the Treasury (“**Treasury**”), the Debtors, and the Official Committee of Unsecured Creditors (the “**Committee**”).

8. As chairperson of the Committee, I consistently and forcefully advocated for Treasury to provide sufficient cash to fully fund the wind down of the Debtors’ estates and liquidation of estate assets, including the Term Loan Avoidance Action. At the time the Initial Budget was formulated, however, I did not - and did not have adequate information at the time to - advocate for specific line items for the various Professionals (as defined below) that were ultimately reflected in the Initial Budget. Rather, upon information and belief, the then proposed Professionals themselves were generally responsible for the individual line items in the Initial Budget, although in some instances, such numbers were set by the Debtors and/or Treasury with input from the Committee.

**Monitoring of Fees to Ensure Budget Compliance and Reasonableness**

9. The GUC Trust currently pays approximately 85 vendors and professionals (each, a “**Professional**” and collectively, the “**Professionals**”). Annexed hereto as *Exhibit A* is a list setting forth the identity of outside vendors and the Professionals. In addition, certain Professionals serve the GUC Trust in multiple capacities. The Avoidance Action Trust also

employs approximately 5 advisors.

10. The GUC Trust maintains multiple levels of controls over Professional compensation. Certain controls consist of penalties borne by Professionals who fail to comply with the current budget. These penalties derive directly from the GUC Trust Agreement. Other controls depend on the continued vigilance of the GUC Trust Administrator and GUC Trust Monitor.

11. First, pursuant to Section 2.6 of the GUC Trust Agreement, any Professional that exceeds its line item budgeted amount cannot be paid the overage from “Wind-Down Budget Cash” (*i.e.* - cash provided by Treasury) absent approval of the DIP Lenders. Further, leaving aside the overage, the Professional’s failure to stay within its budgeted fees and expenses also impairs its ability to recoup its full budgeted amount. Professional fees and expenses from Wind-Down Budget Cash are subject to a 10% monthly holdback. That holdback is returned to Professionals whose billings do not exceed the amount allocated to them in the budget for a calendar year. Any Professional that exceeds its annual budgeted amount, by contrast, cannot receive payment of its 10% holdback until the earlier of the termination of such Professional’s engagement or the dissolution of the GUC Trust. Hence, all Professionals are incentivized to stay within their allocable budgeted amounts.

12. In addition to the foregoing, as representative of the GUC Trust Administrator, I, along with designated staff, have established a system to review and process the fee requests of each Professional to ensure that each request is both reasonable and complies with the Initial Budget. This system works as follows. Upon engagement, a Professional negotiates an engagement letter with the GUC Trust Administrator. Each engagement letter is reviewed, commented on, finalized and signed by me in my capacity as the authorized agent of the GUC

Trust Administrator. If the Professional is to be paid from Wind-Down Budget Cash, prior to such retention, I, or a member of my staff, identify the Professional for and provide the general terms of the proposed engagement to Treasury, and I give Treasury the opportunity to object to such retention. To date, Treasury has not objected to the terms of any Professional's employment.

13. Once the Professional is engaged, it is loaded into our "eApprove" system as an approved GUC Trust Professional. The eApprove system assists me in approving, tracking, processing, paying and reporting the fees and expenses of the GUC Trust. Specifically, eApprove maps and routes invoices based on the vendor, amount of invoice and service provided to separate levels of review, prior to the GUC Trust Administrator's review. Given that approximately 85 separate vendors and Professionals invoice the GUC Trust for costs, fees and expenses, invoices for work performed are received almost daily by the GUC Trust and are input into the eApprove system. Invoices are held for at least 15 days pending a review by the DIP Lenders and the GUC Trust Monitor. Upon information and belief, the DIP Lenders and the GUC Trust Monitor actively review invoices for reasonableness.

14. After the 15-day period (and assuming neither the GUC Trust Monitor nor the DIP Lenders have objected), and assuming no objection has been raised under the eApprove system, each invoice is then further reviewed by me or a member of my staff. When reviewing an invoice, I or a member of my staff reviews the itemized work performed and the cost of the services. After review for reasonableness, each Professional's invoiced fees and expenses are compared to the Initial Budget prior to final approval to ensure that a payment is not made if the Professional has invoiced an amount above its allotted amount in such calendar year.

15. If a Professional exceeds its allocated amount under the Initial Budget, a higher



level of review, tracking, monitoring and reporting takes effect. Each Professional with billings in excess of its budgeted amount undergoes another review by me and my staff to ensure that the proposed fees and expenses are reasonable relative to the resulting benefits enjoyed by GUC Trust beneficiaries.

16. In addition, with respect to Professionals that perform multiple services for the GUC Trust, I require separate invoicing, approval, and payment tracking to ensure fees are allocated to their appropriate line item budgets. For example, if a Professional incurs fees resolving a secured, administrative or priority claim, such fees are payable from the “Residual Wind-Down Assets” (as such term is defined in the GUC Trust Agreement), not Wind-Down Budget Cash. Accordingly, the Professional fees in respect of such matter must be invoiced separately from the Professional’s other fees and expenses. Similarly, if a Professional is incurring fees and expenses related to “Reporting and Transfer Costs”, it must invoice that work separately from other work being performed for the GUC Trust.

17. It is my view that, given the various levels of control in place, the process for ensuring the reasonableness of fees and expenses of Professionals is adequate and in the best interest of the creditors of the estate.

#### **Creation of the 2012 Annual Plan**

18. Pursuant to Section 6.4 of the Trust Agreement, the GUC Trust Administrator is required to submit to the GUC Trust Monitor and DIP Lenders a reasonably detailed annual plan and budget (“**Annual Plan**”) at least 30 days prior to the commencement of each calendar year. The Annual Plan must include the anticipated fees and expenses of the GUC Trust for the applicable year.

19. Near the end of 2011, I and my staff began working on the Annual Plan for the

2012 calendar year. In connection therewith, I (or in some cases, a member of my staff) contacted each significant Professional to discuss the current trending of its fees and expenses and to collect relevant information in support thereof. First, I sought from each Professional the rationale behind their estimated fees and expenses as reflected in the Initial Budget and an explanation and understanding for any difference between actual and budgeted fees and expenses during the 2011 calendar year. Second, I had each Professional provide additional information about progress made in the case generally and the amount of work the Professional believed it had left to perform. Third, I had each Professional provide its best estimate of the amount of funds that it believed would be necessary to complete the tasks assigned to it to conduct an orderly wind down of the estates. Fourth, where appropriate, I requested granular detail from particular Professionals, including summaries of individuals working on the case and hours worked (and expected to be worked) by individual.

20. After reviewing a significant amount of data, and after several internal and external meetings, including meetings with the GUC Trust Monitor, I reached a number of informed conclusions. First, the review demonstrated that although the Professionals, as a whole, were likely to be under-budget for 2011 (in aggregate, by approximately \$2 million), certain Professionals were likely to be over-budget for 2011 (in aggregate, by approximately \$3.5 million). Due to the line item nature of the Budget, the GUC Trust Administrator was unable to pay such overage unless the DIP Lenders consented or New GM Securities were sold to fund such expenses, notwithstanding the fact that such fees and expenses were, in my view, reasonable and the underlying services benefited trust beneficiaries.

21. Second, the review demonstrated that (a) cost overruns in 2012 were likely to be very significant from the Initial Budget and (b) likely, there would be (substantially smaller)

overruns in 2013 and 2014. Given that Treasury is not obligated to fund over the annual amount set forth in the Initial Budget, I determined that it was necessary and appropriate to pursue other avenues to raise funds for future Professional compensation.

22. I also asked for various “cost-benefit” analyses to determine the projected return to trust beneficiaries on account of the GUC Trust’s payment of additional administrative expenses. Based on the data available to me, I determined that it would be in creditors’ best interests to reserve from distribution, and, if necessary, sell, New GM Securities necessary to pay the anticipated reasonable fees and expenses of Professionals. I submitted my conclusions to the GUC Trust Monitor, who agreed with this recommended course of action. This fact was included in the 2012 Annual Plan sent to Treasury.

23. Although the GUC Trust has currently reserved from distribution New GM Securities which, based on my current estimation, should be adequate to fund the GUC Trust through 2014, at my direction, pursuant to the Motion, the GUC Trust Administrator is only seeking to sell New GM Securities necessary to pay accrued and projected reasonable fees and expenses of the GUC Trust in excess of the Initial Budget for 2011 and 2012.

24. If it becomes necessary to sell additional New GM Securities, the GUC Trust Administrator will not do so before first obtaining an Order of the Court authorizing such action. Analyses of estimated overages relative to amounts set forth in the Initial Budget and Reporting and Transfer Costs, each for the years 2011 through 2014 are set forth as *Exhibit B* to this Declaration.<sup>3</sup>

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<sup>3</sup> *Exhibit B* reflects forecasted fees and expenses for 2011 and 2012. The 2011 forecasts include accruals for work performed but not yet invoiced.

**The Avoidance Action Trust**

25. In December 2011, upon the dissolution of MLC, the Term Loan Avoidance Action was transferred to the Avoidance Action Trust. Subject only to the DIP Lenders' appeal of the Court's ruling regarding the ownership of the Avoidance Action Trust, beneficiaries of the Avoidance Action Trust and the GUC Trust are identical – the Debtors' unsecured creditors. The Term Loan Avoidance Action is a potentially valuable source of recovery for unsecured creditors, with over \$1.5 billion in dispute.

26. Per the Initial Budget and the applicable Trust Agreements, the only funding for the Avoidance Action Trust provided by Treasury consists of \$1.6 million in cash to cover all of the trust's professional fees and expenses and other administrative costs plus \$500,000 to cover fees and expenses directly or indirectly related to any potential filings with the Securities and Exchange Commission.

27. I have determined that the current funding of the Avoidance Action Trust is inadequate to properly fund the Term Loan Avoidance Action and the projected administrative costs of the Avoidance Action Trust.

28. An analysis of accrued and estimated Avoidance Action Trust fees and expenses is attached to this declaration as *Exhibit C*.

29. In the event that the fees and expenses are not paid from the New GM Securities currently held by the GUC Trust, the Avoidance Action Trustee may be compelled to seek either outside contingency funding (which will likely cost the Avoidance Action Trust substantially more) or, in the absence thereof, abandon the Term Loan Avoidance Action.

**WTC's Fees on a Going Forward Basis**

30. Sections 9.7 of the GUC Trust Agreement and the Avoidance Action Trust

Agreement provide that the GUC Trust Administrator or Avoidance Action Trust Administrator, as applicable, is entitled to “fair and reasonable” compensation for its services.

31. As noted above, the Plan was confirmed in March of 2011. Prior to confirmation, in or around November 2010, WTC submitted a fee proposal (the “**Fee Proposal**”) to Treasury, as DIP Lender to the Debtors, to serve as GUC Trust Administrator and Avoidance Action Trust Administrator. The Fee Proposal contemplated a 46-month engagement with a flat fee of \$100,000 per month for the first three years and \$50,000 per month thereafter for WTC to serve in the capacities of both GUC Trust Administrator and Avoidance Action Trust Administrator. The Fee Proposal assumed that the Trusts would survive for 46 months.<sup>4</sup> WTC further noted that charges for non-GUC Trust Administrator or Avoidance Action Trust Administrator services would be billed at WTC’s normal and regular rates and the Fee Proposal was subject to modification on account of unusual conditions or requirements.

32. The Fee Proposal was based on the general assumption that the duties required of WTC, as administrator of both the GUC Trust and Avoidance Action Trust, would require the time of one full time senior person (at \$425 per hour) and one full time junior person (at \$200 per hour).

33. Even putting aside the additional duties that are required of WTC in connection with its efforts to seek No Action Relief from the SEC, the general assumptions regarding the nature and complexity of the wind-down of the estates, on which the Fee Proposal was based, have turned out to be inaccurate. Put simply, monitoring approximately 85 vendors and

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<sup>4</sup> Subsequent to the submission of the Fee Proposal, a portion of the aggregate fee (\$50,000) was separated and designated as fees for services rendered as Avoidance Action Trust Administrator. The remainder was designated as fees for services rendered as GUC Trust Administrator.

Professionals, developing financial statements and reports, reviewing proposed objections and settlements to claims, making quarterly distributions to thousands of creditors, reviewing and filing tax returns and addressing additional tax issues, coordinating litigation strategy, assisting creditors with setting up brokerage accounts to receive stock, reviewing updates and analyses from my staff and Professionals, reviewing reports filed with the SEC and answering creditor inquiries has taken a substantially increased amount of WTC's time. Accordingly, WTC has, and will continue to devote, significantly more of its resources, time and energy to the engagements than originally contemplated. Based on my current understanding of the work to be performed, and based on my experiences from the last ten months, I believe that, going forward, it will be necessary for WTC to devote at least two additional senior persons (one full time and one part time) to the GUC Trust Administrator role and one additional part time senior person to the Avoidance Action Trust Administrator role. Notably, despite the additional work performed in 2011, WTC is not seeking additional payment for its efforts in 2011.

34. Given the unexpected and significant increase in the duties of the GUC Trust Administrator and the Avoidance Action Trust Administrator that have arisen since the submission of the Fee Proposal, I submit that the relief requested in the Motion with respect to the proposed increase in WTC's fees is warranted to compensate WTC for the additional work performed and the commensurate loss of opportunity associated with foregoing alternative engagements.

35. Upon information and belief, concurrently herewith, FTI Consulting, Inc. ("**FTI**"), as the GUC Trust Monitor and Avoidance Action Trust Monitor, is submitting a declaration in support of the proposed increase in its fees in connection with the GUC Trust and the Avoidance Action Trust, as described in the Motion. Based on my knowledge regarding the

FTI's initial fee proposal and the time and effort required of the GUC Trust Monitor and Avoidance Action Trust Monitor in connection with the operation and maintenance of the two trusts, I believe that the proposed increase in the GUC Trust Monitor's and Avoidance Action Trust Monitor's respective monthly fees, as proposed in the Motion, is reasonable.

36. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: Wilmington, Delaware  
February 23, 2012

/s/ David A. Vanaskey Jr.

David A. Vanaskey Jr.

*Exhibit A*



## *Exhibit A*

### *Identities of Vendors and Professionals*

ADR Systems	JP Research, Inc.
AlixPartners LLP	King & Spalding LLP
American Arbitration Association	Kramer Levin
AON Premium Finance, LLC	Lathrop & Gage LLP
Avoidance Action Trust	Luscinia Research, LLC
Bernard, Cassisa, Elliott & Davis	McKenna Long & Aldridge LLP
Borden Ladner Garvais LLP	Michigan Consolidated Gas
Bowman and Brooke LLP	Mortality Research & Consulting
Burdin Mediations	Motors Liquidation Company
Butler Snow O Mara Stevens & Cannada PLLC	Needham Kepner & Fish
Butzel Long	O'Hagan Spencer LLP
Christopher Nolland	Osler, Hoskin & Harcourt
Computershare Inc.	Pepper Hamilton
Craddock Davis & Krause LLP	Plante & Moran PLLC
Crowell & Moring	Prichard Hawkins McFarland & Young LLP
CT Corporation	Richards Layton & Finger
D McMurtry & Associates LLC	RR Donnelley
Deloitte Tax	Rumberger Kirk & Caldwell, PA
Dickinson Wright PLLC	Safety Forensics, PLLC
Dickstein Shapiro	Sanchez Daniels & Hoffman LLP
DykemaGossett PLLC	Secure 24
Eckert Seamans Cherin & Mellott, LLC	Sedgwick LLP
Econsult Corporation	Stewart McKelvey
EldridgeCooperSteichen & Leach	Tansey, Tracy & Convery, Esqs.
Epiq Bankruptcy Solutions, LLC	The Claro Group
Eric H. Holtzman	The Garden City Group, Inc.
Exponent, Inc.	Thorn Gershon Tymann Bonanni, LLP
First Insurance Funding Corp	Togut, Segal & Segal LLP
Foster Swift Collins & Smith PC	Tumino s Towing
Francis Carling Mediation & Arbitration	Turner, Reid, Duncan, Loomer & Patton PC
Garden City Group	US Department of Justice Office of the US Trustee
General Motors Company	Vincent Lopez Serafino Jenevein, PC
Genex Services, Inc.	Watkins Meegan
Gibson Dunn & Crutcher LLP	Weil, Gotshal & Manges LLP
Gilbert Mediation Group	Young Ricchiuti Caldwell & Heller, LLC
Glass Dispute Resolution	Zablocki Consulting
Godfrey & Kahn, S.C.	Zausmer Kaufman August Caldwell & Tayler

***Exhibit B***

**MLC GUC Trust 2011 and 2012 Expected Cost Analysis**  
 Analysis in support of request to liquidate shares  
 (\$ in thousands)

	2011 (Mar 1 - Dec 31)				2012 Full Year				
	Estimated 2011 Expense	Initial Budget	Unfav Variance to be funded	Fav Variance due to timing (carried to 2012)	Estimated 2012 Expense	Initial Budget	plus: Fav Variance from 2011 to be carried over to 2012	Original Budget plus: 2011 carry over	Unfav Variance to be funded
<b>1 Trust Monitor (FTI Consulting)</b>	579.0	625.0		46.0	1,648.5	360.0	46.0	406.0	1,242.5
<b>2 Trust Administrator (Wilmington Trust)</b>	945.0	1,184.9		239.9	2,520.0	1,146.0	239.9	1,386.0	1,134.0
Financial Reporting & Claims Resolution (AlixPartners)	8,755.8	7,359.0	1,396.9		7,918.2	2,245.2	0.0	2,245.2	5,673.0
Lead Counsel <sup>1</sup>	5,878.1	4,500.0	1,378.1		7,020.0	3,600.0	0.0	3,600.0	3,420.0
ADR Legal Counsel Fees & Expenses <sup>2</sup>	1,406.2	5,762.2		4,356.0	9,566.6	5,210.6	4,356.0	9,566.6	0.0
Nova Scotia Litigation <sup>3</sup>	1,286.5	1,900.0		613.5	3,400.0	100.0	613.5	713.5	2,686.5
Canadian Counsel (Stewart McKelvey)	14.7	125.0		110.3	160.3	50.0	110.3	160.3	0.0
Garden City Group	915.8	770.0	145.8		500.0	300.0	0.0	300.0	200.0
Trust Counsel (Gibson Dunn)	800.8	265.1	535.7		300.0	246.0	0.0	246.0	54.0
<b>3 Trust Professionals</b>	<b>19,057.9</b>	<b>20,681.2</b>	<b>3,456.5</b>	<b>5,079.8</b>	<b>28,865.1</b>	<b>11,751.8</b>	<b>5,079.8</b>	<b>16,831.6</b>	<b>12,033.5</b>
Accounting & Tax Advisors <sup>4</sup>	127.2	250.0		122.8	622.8	500.0	122.8	622.8	0.0
Rent and Facilities <sup>5</sup>	154.6	178.0		23.4	201.4	178.0	23.4	201.4	0.0
Insurance Expense	125.0	125.0	0.0		125.0	125.0	0.0	125.0	0.0
<b>4 Other Costs</b>	<b>406.8</b>	<b>553.0</b>	<b>0.0</b>	<b>146.2</b>	<b>949.2</b>	<b>803.0</b>	<b>146.2</b>	<b>949.2</b>	<b>0.0</b>
<b>5 Reserve for Tax on DIP Loan</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>		<b>6,000.0</b>	<b>6,000.0</b>	<b>0.0</b>	<b>6,000.0</b>	<b>0.0</b>
<b>Total</b>	<b>20,988.6</b>	<b>23,044.2</b>	<b>3,456.5</b>	<b>5,512.0</b>	<b>39,982.8</b>	<b>20,060.8</b>	<b>5,512.0</b>	<b>25,572.8</b>	<b>14,410.0</b>

**6 Total 2011 and 2012 estimated fees and expenses** **60,971.5**

7 Amount funded by Initial Budget (43,105.0)

**8 Total GUC Trust fees and expenses to be funded with proceeds from the sale of New GM securities** **17,866.5**

<sup>1</sup> Lead Counsel expenses include fees paid to and estimated for the following professionals:

Weil  
Dickstein

<sup>2</sup> ADR Legal Counsel Fees & Expenses include fees paid to and estimated for the following vendors and professionals:

Bernard, Cassisa, Elliott & David  
Borden Ladner Gervais LLP  
Bowman & Brook LLP  
Butler Snow  
Carddock Davis & Krause LLP  
D. McMurtry & Associates LLC  
Dykema  
Eckert Seamans Chernin & Mellot LLC  
Eldridge Cooper Steichen & Leach PLLC  
Epiq  
Hanson Bolkcom Group Ltd  
Hartline Davus Barger Dreyer  
Honigman Miller Schwartz Cohn LLP  
Jenner & Block LLP  
King & Spalding LLP  
Lathrop & Gage  
McKenna, Long & Aldridge  
O'Hagan Spencer LLP  
Prichard, Hawkins, McFarland & Young LLP  
Richard Layton & Finger  
Remberger, Kirk & Caldwell, P.A.  
Sedgwick, Detert, Morgan & Arnold LLP  
Tansey, Tracy & Convery  
The Rose Law Firm LLC  
Thorn Gershon Tymann  
Turner, Reid, Duncan, Loomer & Patton, P.C.  
Zausmer, Kaufman, August, Caldwell, & Taylor, P.C.

<sup>3</sup> Nova Scotia Litigation expenses include fees paid to and estimated for the following professionals:

Butzel Long  
Jenner & Block  
Dickstein Shapiro

<sup>4</sup> Accounting and Tax Advisor expenses include fees paid to and estimated for the following professionals:

Wilmington Trust (Investment Management Fee)  
Plante Moran (External Auditor)  
Rick Zablocki (Tax Advisor)

<sup>5</sup> Rent and Facilities expenses include fees paid to and estimated for the following professionals:

Wilmington Trust (Custody Fee)  
Computershare  
US Trustee Fee

<sup>6</sup> Fees and expenses to be paid from the proceeds of the stock sale will not be restricted by line items so that a surplus in one line item can be used to fund budget overages in another line item.

**MLC GUC Trust 2011 Estimated Fee Detail**  
 (\$ in thousands)

2011 (Mar 1 - Dec 31)				
	Estimated 2011 Expense	Initial Budget	Unfav Variance to be funded	Fav Variance due to timing (carried to 2012)
<b>1 Trust Monitor (FTI Consulting)</b>	579.0	625.0		46.0
<b>2 Trust Administrator (Wilmington Trust)</b>	945.0	1,184.9		239.9
Financial Reporting & Claims Resolution (AlixPartners)	8,755.8	7,359.0	1,396.9	
Weil	5,393.3			
<u>Dickstein</u>	484.8			
Lead Counsel	5,878.1	4,500.0	1,378.1	
Bernard, Cassisa, Elliott & David	6.0			
Borden Ladner Gervais LLP	2.5			
Bowman & Brook LLP	177.8			
Butler Snow	5.8			
Carddock Davis & Krause LLP	0.0			
D. McMurtry & Associates LLC	47.1			
Dykema	76.0			
Eckert Seamans Chernin & Mellot LLC	27.2			
Eldridge Cooper Steichen & Leach PLLC	6.8			
Epiq	61.9			
Hanson Bolkcom Group Ltd	31.9			
Hartline Davus Barger Dreyer	149.0			
Honigman Miller Schwartz Cohn LLP	1.3			
Jenner & Block LLP	17.3			
King & Spalding LLP	90.8			
Lathrop & Gage	10.7			
McKenna, Long & Aldridge	0.0			
O'Hagan Spencer LLP	2.2			
Prichard, Hawkins, McFarland & Young LLP	1.5			
Richard Layton & Finger	5.2			
Remberger, Kirk & Caldwell, P.A.	1.4			
Sedgwick, Detert, Morgan & Arnold LLP	4.0			
Tansey, Tracy & Convery	40.3			
The Rose Law Firm LLC	0.0			
Thorn Gershon Tymann	7.2			
Turner, Reid, Duncan, Loomer & Patton, P.C.	5.8			
Zausmer, Kaufman, August, Caldwell, & Taylor, P.C.	5.9			
ADR Accrual	509.0			
Mediation and expert expense	111.4			
ADR Legal Counsel Fees & Expenses	1,406.2	5,762.2		4,356.0
Butzel Long	146.9			
Jenner & Block	0.0			
<u>Dickstein Shapiro</u>	1,139.6			
Nova Scotia Litigation	1,286.5	1,900.0		613.5
Canadian Counsel (Stewart McKelvey )	14.7			
Garden City Group	915.8			
Trust Counsel (Gibson Dunn)	800.8			
<b>3 Trust Professionals</b>	<b>19,057.9</b>	<b>20,681.2</b>	<b>3,456.5</b>	<b>5,079.8</b>
Wilmington Investment Fee	76.2			
Plante Moran	37.5			
Rick Zablocki	13.4			
Accounting & Tax Advisors	127.2	250.0		122.8
Rent/Facilities Expense	106.2			
Wilmington Custody Fee	25.0			
Computershare	0.6			
US Trustee Fee	22.8			
Rent and Facilities	154.6	178.0		23.4
Insurance Expense	125.0			
<b>4 Other Costs</b>	<b>406.8</b>	<b>553.0</b>	<b>0.0</b>	<b>146.2</b>
<b>5 Reserve for Tax on DIP Loan</b>	<b>0.0</b>	<b>0.0</b>		
<b>6 Total 2011 estimated fees and expenses</b>	<b>20,988.6</b>	<b>23,044.2</b>	<b>3,456.5</b>	<b>5,512.0</b>
Net variance of estimated expenses to the Initial Budget				(2,055.5)

**MLC GUC Trust 2013 and 2014 Projected Cost Analysis**  
 Analysis in support of decision to reserve shares  
 (\$ in thousands)

	2013 Full Year			2014 Full Year		
	Estimated 2013 Expense	Initial Budget	Unfav Variance to be funded	Estimated 2014 Expense	Initial Budget	Unfav Variance to be funded
<b>1 Trust Monitor (FTI Consulting)</b>	1,443.8	180.0	1,263.8	1,307.3	0.0	1,307.3
<b>2 Trust Administrator (Wilmington Trust)</b>	2,467.5	1,146.0	1,321.5	2,467.5	573.0	1,894.5
Financial Advisor & Claims Resolution (AlixPartners)		658.9			0.0	
Lead Counsel <sup>1</sup>		900.0			0.0	
ADR Legal Counsel Fees & Expenses <sup>2</sup>		4,296.3			0.0	
Nova Scotia Litigation <sup>3</sup>		0.0			0.0	
Canadian Counsel (Stewart McKelvey )		0.0			0.0	
<b>Subtotal estimate for Alix, Lead Counsel, ADR Legal, Nova Scotia Litigation &amp; Canadian Counsel<sup>4</sup></b>	<b>10,000.0</b>	<b>5,855.2</b>	<b>4,144.8</b>	<b>4,000.0</b>	<b>0.0</b>	<b>4,000.0</b>
Garden City Group	300.0	300.0	0.0	300.0	300.0	0.0
Trust Counsel (Gibson Dunn)	501.0	246.0	255.0	501.0	123.0	378.0
<b>3 Trust Professionals</b>	<b>10,801.0</b>	<b>6,401.2</b>	<b>4,399.8</b>	<b>4,801.0</b>	<b>423.0</b>	<b>4,378.0</b>
Accounting & Tax Advisors <sup>5</sup>	150.0	150.0	0.0	150.0	150.0	0.0
Rent and Facilities <sup>6</sup>	178.0	178.0	0.0	0.0	0.0	0.0
Insurance Expense	125.0	125.0	0.0	178.0	178.0	0.0
<b>4 Other Costs</b>	<b>453.0</b>	<b>453.0</b>	<b>0.0</b>	<b>328.0</b>	<b>328.0</b>	<b>0.0</b>
<b>5 Reserve for Tax on DIP Loan</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>125.0</b>	<b>125.0</b>	<b>0.0</b>
<b>Total</b>	<b>15,165.2</b>	<b>8,180.2</b>	<b>6,985.0</b>	<b>9,028.7</b>	<b>1,449.0</b>	<b>7,579.7</b>
<b>6 Total 2013 and 2014 projected fees and expenses</b>						<b>24,194.0</b>
7 Amount funded by Initial Budget						(9,629.2)
<b>8 Total GUC Trust fees and expenses to be reserved from future excess distributions but not liquidated at this time</b>						<b>14,564.7</b>

<sup>1</sup> Lead Counsel expenses include fees paid to and estimated for the following professionals:

Weil  
 Dickstein

<sup>2</sup> ADR Legal Counsel Fees & Expenses include fees paid to and estimated for the following vendors and professionals:

Bernard, Cassisa, Elliott & David  
 Borden Ladner Gervais LLP  
 Bowman & Brook LLP  
 Butler Snow  
 Carddock Davis & Krause LLP  
 D. McMurtry & Associates LLC  
 Dykema  
 Eckert Seamans Chernin & Mellot LLC  
 Eldridge Cooper Steichen & Leach PLLC  
 Epiq  
 Hanson Bolkcom Group Ltd  
 Hartline Davus Barger Dreyer  
 Honigman Miller Schwartz Cohn LLP  
 Jenner & Block LLP  
 King & Spalding LLP  
 Lathrop & Gage  
 McKenna, Long & Aldridge  
 O'Hagan Spencer LLP  
 Prichard, Hawkins, McFarland & Young LLP  
 Richard Layton & Finger  
 Remberger, Kirk & Caldwell, P.A.  
 Sedgwick, Detert, Morgan & Arnold LLP  
 Tansey, Tracy & Convery  
 The Rose Law Firm LLC  
 Thorn Gershon Tymann  
 Turner, Reid, Duncan, Loomer & Patton, P.C.  
 Zausmer, Kaufman, August, Caldwell, & Taylor, P.C.

<sup>3</sup> Nova Scotia Litigation expenses include fees paid to and estimated for the following professionals:

Jenner & Block  
 Dickstein Shapiro

<sup>4</sup> Given the extended time horizon, 2013 and 2014 estimates were based off of high level trends, not line by line budgets.

<sup>5</sup> Accounting and Tax Advisor expenses include fees paid to and estimated for the following professionals:

Wilmington Trust (Investment Management Fee)  
 Plante Moran (External Auditor)  
 Rick Zablocki (Tax Advisor)

<sup>6</sup> Rent and Facilities expenses include fees paid to and estimated for the following professionals:

Computershare  
 US Trustee Fee

<sup>7</sup> Fees and expenses to be paid from the proceeds of the stock sale will not be restricted by line items so that a surplus in one line item can be used to fund budget overages in another line item.

**MLC GUC Trust Reporting & Transfer 2011 and 2012 Expected Cost Analysis**

Analysis in support of request to liquidate shares

(\$ in thousands)

	Estimated 2011 Expense Mar 1 - Dec 31	Estimated 2012 Expense
<b>1 Trust Monitor (FTI Consulting)</b>	<b>0.0</b>	<b>787.5</b>
<b>2 Trust Administrator (Wilmington Trust)</b>	<b>0.0</b>	<b>2,152.5</b>
AlixPartners	1,942.1	816.3
Gibson Dunn	1,328.1	500.0
Watkins Meegan	20.6	279.4
Plante Moran	200.0	100.0
Crowell Moring	350.0	250.0
Kramer Levin	808.7	300.0
<b>3 Trust Professionals</b>	<b>4,649.5</b>	<b>2,245.7</b>
Insurance	535.0	13.0
Bowne Printing	30.0	30.0
Legal Reserve Fund	0.0	2,000.0
Other Reporting/Compliance Contingency <sup>1</sup>	0.0	1,354.7
<b>4 Other Costs and Reserves</b>	<b>565.0</b>	<b>3,397.7</b>
<b>5 Funding for Avoidance Action Reporting Costs</b>	<b>500.0</b>	<b>0.0</b>
Total	5,714.5	8,583.4
<b>6 Total 2011 and 2012 estimated fees and expenses</b>		<b>14,298.0</b>
7 Amount to be funded by Initial Budget		(5,649.3)
8 Total GUC Trust Reporting & Transfer fees and expenses to be funded with proceeds from the sale of New GM securities		8,648.7

<sup>1</sup> Other Reporting/Compliance Contingency costs includes \$1.354MM in 2012 for additional reporting or compliance costs that may arise as a result of the finalization of the SEC no action letter or the Sarbanes Oxley risk assessment and corresponding gap analysis.

**MLC GUC Trust Reporting & Transfer 2013 and 2014 Projected Cost Analysis**

Analysis in support of decision to reserve shares

(\$ in thousands)

	Estimated 2013 Expense	Estimated 2014 Expense
<b>1 Trust Monitor (FTI Consulting)</b>	<b>525.0</b>	<b>525.0</b>
<b>2 Trust Administrator (Wilmington Trust)</b>	<b>1,365.0</b>	<b>1,365.0</b>
AlixPartners	450.0	450.0
Gibson Dunn	325.0	488.0
Watkins Meegan	150.0	125.0
Plante Moran	100.0	100.0
Crowell Moring	100.0	100.0
Kramer Levin	0.0	0.0
<b>3 Trust Professionals</b>	<b>1,125.0</b>	<b>1,263.0</b>
Insurance	13.0	13.0
Bowne Printing	30.0	30.0
Legal Reserve Fund	0.0	0.0
Other Reporting/Compliance Contingency <sup>1</sup>	0.0	0.0
<b>4 Other Costs and Reserves</b>	<b>43.0</b>	<b>43.0</b>
<b>5 Funding for Avoidance Action Reporting Costs</b>	<b>0.0</b>	<b>0.0</b>
Total	3,058.0	3,196.0
<b>6 Total 2013 and 2014 projected fees and expenses</b>		<b>6,254.0</b>
7 Amount to be funded by Initial Budget		<b>0.0</b>
<b>8 Total GUC Trust Reporting &amp; Transfer fees and expenses to be reserved from future excess distributions but not liquidated at this time</b>		<b>6,254.0</b>

<sup>1</sup> Other Reporting/Compliance Contingency costs are \$0 in 2013 and 2014.

***Exhibit C***



**MLC AAT Trust 2011 - 2014 Expected Cost Analysis**

Analysis in support of request to liquidate shares

(\$ in thousands)

	Estimated 2012 Expense	Estimated 2013 Expense	Estimated 2014 Expense
<b>1 Trust Monitor (FTI Consulting)</b>	<b>480.0</b>	<b>480.0</b>	<b>480.0</b>
<b>2 Trust Administrator (Wilmington Trust)</b>	<b>700.0</b>	<b>700.0</b>	<b>700.0</b>
Financial valuation (Ernst & Young/Frazier Deeter)	50.0	0.0	0.0
Legal valuation (Dickstein Shapiro)	150.0	0.0	0.0
Insurance	1,250.0	0.0	0.0
Tax Consultant (Grant Thornton)	400.0	200.0	400.0
Trust Counsel (Gibson Dunn)	100.0	25.0	25.0
Other <sup>1</sup>	400.0	325.0	2,825.0
<b>3 Total trust professional fees and expenses</b>	<b>2,350.0</b>	<b>550.0</b>	<b>3,250.0</b>
<b>4 Litigation expense (Dickstein Shapiro)</b>	<b>1,600.0</b>	<b>2,000.0</b>	<b>2,000.0</b>
<i>Total</i>	<i>5,130.0</i>	<i>3,730.0</i>	<i>6,430.0</i>
<b>5 Total 2011 - 2014 estimated fees and expenses</b>			<b>15,290.0</b>
6 Amount to be funded by Initial Budget			(1,576.0)
<b>8 Total AAT Trust fees and expenses to be funded with proceeds from the sale of New GM securities</b>			<b>13,714.0</b>

<sup>1</sup> Other costs includes general contingencies of \$400k in 2012; \$325k in 2013; and \$325k plus a \$2.5MM reserve against a potential insurance deductible in 2014.

# **REPLY EXHIBIT F**

[Phillips Declaration]

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

**In re:**

**MOTORS LIQUIDATION COMPANY., *et al.*  
(f/k/a General Motors Corp., *et al.*)**

**Debtors.**

Chapter 11

Case No. 09-50026 (REG)

(Jointly Administered)

**DECLARATION OF ANNA PHILLIPS IN SUPPORT OF THE MOTION  
OF WILMINGTON TRUST COMPANY, (I) AS GUC TRUST ADMINISTRATOR, TO  
(A) LIQUIDATE NEW GM SECURITIES FOR THE PURPOSE OF FUNDING FEES,  
COSTS AND EXPENSES OF THE GUC TRUST AND AVOIDANCE ACTION TRUST,  
AND (B) TRANSFER NEW GM SECURITIES TO THE AVOIDANCE ACTION TRUST  
FOR THE PURPOSE OF FUNDING FUTURE TAX LIABILITIES  
AND (II) AS AVOIDANCE ACTION TRUST ADMINISTRATOR, TO APPROVE  
AN AMENDMENT TO THE AVOIDANCE ACTION TRUST AGREEMENT**

I, Anna Phillips declare:

1. I am a Senior Managing Director of FTI Consulting, Inc. (“FTI”), located at 1201 W. Peachtree St. Suite 600, Atlanta, Georgia 30309. I submit this declaration (the “**Declaration**”) in support of the motion (the “**Motion**”)<sup>1</sup> submitted by (i) the GUC Trust Administrator seeking entry of an Order approving (a) the GUC Trust’s sale of New GM Securities to fund accrued and expected fees, costs and expenses of the GUC Trust and the Avoidance Action Trust, and (b) the GUC Trust’s transfer of New GM Securities to the Avoidance Action Trust to fund potential future tax liabilities of the Avoidance Action Trust, and (ii) the Avoidance Action Trust Administrator, seeking entry of an Order approving an amendment to the Avoidance Action Trust Agreement.

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Motion.

2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would competently testify thereto.

### **Background and the Budget**

3. FTI's initial role in the Chapter 11 Cases was as financial advisor to the Official Committee of Unsecured Creditors (the "**Committee**"). FTI's retention in such capacity was approved by an Order of this Court dated August 18, 2009 (Docket No. 3829).

4. On March 29, 2011, this Court entered an Order confirming MLC's liquidating Plan, and appointing FTI as GUC Trust Monitor and Avoidance Action Trust Monitor. The Plan, as confirmed by the Court, included a budget for the GUC Trust and an administrative fund for the Avoidance Action Trust (collectively, the "**Initial Budget**"). FTI's projected fees and expenses as GUC Trust Monitor and Avoidance Action Trust Monitor were incorporated into the back-up of the Initial Budget.

5. As financial advisor to the Committee, FTI was just one of a large number of estate parties and professionals who provided input to the Debtors' professionals in relation to the Initial Budget. The Initial Budget primarily was developed by the Debtors and their professionals. The Debtors dealt directly with the DIP Lenders to secure approval for the Initial Budget.

6. As an advisor to the Committee, I attempted to ensure that the United States Department of the Treasury (the "**Treasury**"), in its capacity as DIP Lender to the Debtors, provided the cash necessary to fund wind-down of the Debtors' estates. At the time the Initial Budget was formulated, it was not possible to ascertain with certainty whether the line-items allocated in the Initial Budget would prove adequate to fund fees and expenses incurred in connection with the wind-down of the Debtors' estates or the liquidation of the Debtors' assets. I

was aware, however, that the GUC Trust Agreement provided the GUC Trust Administrator with authority to reserve (with GUC Trust Monitor approval) and liquidate (with Court approval) New GM Securities, in the event available funds provided were insufficient.

**Monitoring of Fees to Ensure Reasonableness**

7. The GUC Trust, in general, implements the Plan by reconciling Disputed General Unsecured Claims (Class 3 claims) against the Debtors and distributing New GM Securities to holders of Allowed General Unsecured Claims. In addition, since the December 15, 2012 dissolution of MLC, the GUC Trust has assumed responsibility for the satisfaction of existing Residual Wind-Down Claims (as defined in the GUC Trust Agreement).

8. The GUC Trust currently receives invoices from approximately 85 separate vendors and professionals (each, a “**Professional**” and collectively, the “**Professionals**”). In addition, numerous Professionals serve the GUC Trust in separate capacities and for which they provide separate invoices. Professionals serve the GUC Trust in various capacities, including: (a) accounting; (b) litigation services; (c) corporate and securities law services; (d) financial advisory work; (e) risk and operational controls; and (f) accounting.

9. In accordance with Section 8.3 of the GUC Trust Agreement, I and my staff designated to this matter receive and review for reasonableness electronic or hardcopy monthly invoices submitted by Professionals prior to their payment. This has required significant resources to ensure that Professionals act in a reasonable and cost effective manner that will benefit GUC Trust beneficiaries.

10. It is my view that the GUC Trust Monitor’s review process coupled with the other safeguards set forth in the GUC Trust Agreement ensures the reasonableness of Professional fees and expenses and is adequate and in the best interests of allowed creditors.

### The 2012 Budget

11. The GUC Trust Monitor also exerts control over Professional compensation through its review of and sign-off on the annual budget and quarterly updates, as required. *See* GUC Trust Agreement §§ 6.4, 11.3. The GUC Trust Administrator is required to submit to the GUC Trust Monitor and the DIP Lenders, for their review and approval, a reasonably detailed annual plan and budget (“**Annual Plan**”) at least 30 days prior to the commencement of each calendar year. The Annual Plan must include the anticipated fees and expenses of the GUC Trust for the applicable year.

12. On December 1, 2011, the GUC Trust Administrator sent to me the 2012 Annual Plan, prompting considerable analysis and review of the underlying drivers of the Annual Plan and resulting financial impact of the proposed payments set forth therein. After a careful evaluation of the foregoing, I approved the 2012 Annual Plan.

13. Around the same time, the GUC Trust Administrator contacted me regarding reserving New GM Securities from the next distribution of Excess GUC Trust Distributable Assets to pay the anticipated reasonable fees and expenses of Professionals. Although, in 2011, the aggregate Professional fees, costs and expenses likely fell below their estimated amounts in the Initial Budget (in aggregate, by approximately \$2 million), certain Professionals likely were over-budget (in the aggregate, by approximately \$3.5 million). Based on numbers provided to me by the GUC Trust Administrator, however, future projected overruns appeared substantial. After considerable discussion and due diligence regarding the fees incurred to date, the current status of the various work streams and projected fees going forward for those work streams, I agreed with the GUC Trust Administrator’s decision to reserve New GM Securities to pay costs, fees and expenses for 2011 and beyond and the magnitude of the reserve of New GM Securities.

### **The Avoidance Action Trust**

14. Wilmington Trust Company, in its capacity as GUC Trust Administrator, also proposed to establish a separate reserve of New GM Securities to fund the Avoidance Action Trust. As part of such request, the Avoidance Action Trust Administrator demonstrated for me the expected fees, costs and expenses of operating the Avoidance Action Trust (including in connection with the prosecution of the Term Loan Avoidance Action). After considerable analysis and due diligence of (a) the Avoidance Action Trust Administrator's budget estimates for expected fees, costs and expenses, (b) the amount of unfinished work in connection with the Term Loan Avoidance Action and the recent appeal of the Term Loan Ownership Ruling, and (c) potential outcomes if the Avoidance Action Trust failed to receive sufficient funding, I agreed with this course of action.

### **FTI's Fees on a Going-Forward Basis**

15. As noted above, the Plan was confirmed in late March of 2011. Nearly five months prior to confirmation, in early November 2010, FTI submitted a fee proposal (the "**Fee Proposal**") to the Treasury as DIP Lender, to serve as GUC Trust Monitor and Avoidance Action Trust Monitor. The Fee Proposal contemplated a 36-month engagement with monthly fees equal to (a) \$75,000 for the first 3 months of the Trusts' existence, (b) \$50,000 for the following 9 months, (c) \$30,000 for the next 12 months, and (d) \$15,000 for the final 12 months.

16. The Fee Proposal was based on the general assumption that the duties required of FTI as monitor of both Trusts would require 1,365 total hours of work in year 1, 750 hours of work in year 2, and 375 hours of work in year 3 – and that the Trusts would dissolve by the end of year 3. In drafting the Fee Proposal, I and my FTI colleagues further assumed that, through

FTI's use of leverage, the blended hourly rate of FTI professionals would be below \$500 per hour.

17. The general assumptions on which the Fee Proposal was based have turned out to be inaccurate. Put simply, monitoring approximately 85 Professionals, reviewing, commenting on and providing sign-off to financial statements and reports, analyzing and commenting on certain proposed claims settlements, and reviewing, with the requisite level of due diligence, the Annual Plan and related quarterly updates and reports filed and that will need to be filed with the SEC have each required far more time than previously anticipated. Also, due to the complexity and materiality of the issues being addressed, the work has not been leveraged to more junior staff, resulting in a significantly higher blended hourly fee rate. Finally, based on progress completed to date, I believe the Trusts will not be dissolved by March 31, 2014, necessitating FTI's remaining as GUC Trust Monitor and Avoidance Action Trust Monitor for an estimated additional 9 months.

18. Based on my current understanding of the work to be performed, and based on my experiences from the last ten months, I believe that, going forward, FTI's service as monitor for the GUC Trust and Avoidance Action Trust will require a substantially greater time commitment by senior and highly experienced personnel. The following chart compares the projected work hours underlying the original Fee Proposal versus the FTI's current estimates regarding hours to be spent by FTI acting in its capacities as GUC Trust Monitor and Avoidance Action Trust Monitor (including time spent during the Trust's first 10 months of existence).



	<u>FEE PROPOSAL</u>	<u>CURRENT ESTIMATES<sup>2</sup></u>
<b>YEAR 1</b> <i>12 months ending 3/31/12</i>	1,365	2,100
<b>YEAR 2</b> <i>12 months ending 3/31/13</i>	750	2,700
<b>YEAR 3</b> <i>12 months ending 3/31/14</i>	375	2,700
<b>4/1/14 - 12/31/14</b>	0	2,000
<b>TOTAL</b>	2,490	9,500

Notably, FTI is not seeking compensation for time spent in 2011 above the fees set forth in the Fee Proposal notwithstanding the significant negative variance incurred based on actual time worked.

19. Given the significant increase in the duties of the GUC Trust Monitor and the Avoidance Action Trust Monitor that have arisen since submission of the Fee Proposal, I submit that the relief requested in the Motion with respect to the proposed increase in FTI's fees is warranted to compensate FTI for the additional work performed and the commensurate loss of opportunity associated with foregoing alternative engagements.

20. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: Atlanta, Georgia  
February 23, 2012

/s/ Anna Phillips  
Anna Phillips

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<sup>2</sup> The current hours estimates above do not include hours spent by the GUC Trust Monitor compensable as a Reporting and Transfer Cost because FTI's efforts in this respect were not reflected in the initial Fee Proposal.

# **REPLY EXHIBIT G**

[Morrow Declaration]

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

**In re:**

**MOTORS LIQUIDATION COMPANY., *et al.*  
(f/k/a General Motors Corp., *et al.*)**

**Debtors.**

Chapter 11

Case No. 09-50026 (REG)

(Jointly Administered)

**DECLARATION OF THOMAS A. MORROW IN SUPPORT OF THE MOTION  
OF WILMINGTON TRUST COMPANY, (I) AS GUC TRUST  
ADMINISTRATOR, TO (A) LIQUIDATE NEW GM SECURITIES FOR THE  
PURPOSE OF FUNDING FEES, COSTS AND EXPENSES OF THE GUC TRUST  
AND AVOIDANCE ACTION TRUST, AND (B) TRANSFER NEW GM  
SECURITIES TO THE AVOIDANCE ACTION TRUST FOR THE PURPOSE OF  
FUNDING FUTURE TAX LIABILITIES AND  
(II) AS AVOIDANCE ACTION TRUST ADMINISTRATOR, TO APPROVE  
AN AMENDMENT TO THE AVOIDANCE ACTION TRUST AGREEMENT**

I, Thomas A. Morrow declare:

1. I am a Managing Director of AlixPartners LLP (“**AlixPartners**”), located at 2000 Town Center, Suite 2400, Southfield, MI 48075, and am duly authorized to submit this declaration (the “**Declaration**”) on behalf of AlixPartners.

2. I submit this Declaration in support of the motion (the “**Motion**”)<sup>1</sup> submitted by (i) the GUC Trust Administrator seeking entry of an Order approving (A) the GUC Trust’s sale of New GM Securities to fund accrued and expected fees, costs and expenses of the GUC Trust and the Avoidance Action Trust, and (B) the GUC Trust’s transfer of New GM Securities to the Avoidance Action Trust to fund potential future tax liabilities of the Avoidance Action Trust, and (ii) the Avoidance Action Trust

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Motion.

Administrator, seeking entry of an Order approving an amendment to the Avoidance Action Trust Agreement.

3. Unless otherwise stated in this Declaration, I submit this Declaration is based on my personal knowledge of the facts set forth herein, my review of relevant documents and court pleadings, and the advice of other professionals in this case. If called as a witness, I could and would competently testify thereto.

**Claims Resolution to Date**

4. AlixPartners has played a key role in the Debtors' and GUC Trust's claims resolution process, negotiating or otherwise contributing to the estates' objections to hundreds of billions of dollars of Disputed General Unsecured Claims. I and members of my staff have been deeply involved in numerous aspects of the claims resolution process, and I generally have assumed a leadership role directing negotiation and litigation strategy.

5. In the first nine months of the GUC Trust's existence, AlixPartners, the GUC Trust Administrator, the GUC Trust Monitor and other Trust Professionals' collective efforts resulted in the resolution of approximately \$2.5 billion (or approximately 25.8%) of the approximately \$9.7 billion of initial Disputed General Unsecured Claims (*i.e.* disputed claims remaining after the Effective Date of the Plan). Of the \$2.5 billion, only claims (or portions of claims) with an aggregate amount of approximately \$153 million were allowed, meaning that approximately 93% of the total resolved claims between March 31, 2011 and December 31, 2011 were disallowed. The disallowance of Disputed General Unsecured Claims in 2011 resulted in GUC Trust

distributions of approximately \$297 million of Excess GUC Trust Distributable Assets to Trust Unit beneficiaries at the end of the First and Second Quarter Distributions.<sup>2</sup>

6. In addition to the fully resolved claims referenced above, Trust Professionals are in various stages of completion resolving additional Disputed General Unsecured Claims (“Work in Progress” claims) with an aggregate asserted value of \$1.5 billion. These Work In Progress claims include claims: (x) that have been objected to; (y) to which Trust Professionals are preparing objections for the Court’s consideration; and (z) that are the subject of active negotiation between Trust Professionals and the claimants.

7. Although Trust Professionals have made significant progress reconciling and resolving Disputed General Unsecured Claims, the process has proven more time consuming and costly than initially anticipated. The sheer volume and complexity of claims coupled with the GUC Trust’s need to address many responses individually continues to require resources over and above what was originally budgeted.

8. Nonetheless, as the dollar value of individual Disputed General Unsecured Claims has decreased, Trust Professionals have continuously taken active steps to streamline the claims reconciliation process (and otherwise decrease attendant expenses). Specifically, as claims are resolved, I believe that I will be able to make corresponding reductions in the AlixPartners team, reducing administrative costs. Based on the budget discussions with other professionals, I believe that other Trust Professionals intend to make similar reductions to their teams. Further, I believe the

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<sup>2</sup> Market values included herein are estimated based on publicly available market pricing for New GM Common Stock and New GM Warrants as reported on or about the date of each distribution.

remaining Disputed General Unsecured Claims, totaling approximately \$4.7 billion (excluding certain discrete large litigation claims), will be reconciled and resolved more quickly and more efficiently than previously resolved claims. Because of the Debtors' and the GUC Trust Administrator's "top down" approach to claims reconciliation, prioritizing the largest claims for reconciliation before smaller claims, a larger percentage of the remaining claims are smaller. I believe these claims will require less time and expense to resolve. Based on current estimates and progress completed to date, I believe it is possible for the GUC Trust to resolve all or substantially all outstanding Disputed General Unsecured Claims (with the exception of certain litigation claims) by the end of 2012. Resolution of litigation claims will likely continue into 2013.

**The Benefits of Claims Resolution Moving Forward**

9. Based on my experience and analysis of remaining Disputed General Unsecured Claims, I believe that the benefits enjoyed by GUC Trust beneficiaries on account of the claims resolution process outweigh the attendant costs. Attached hereto as *Exhibit A* is a hypothetical scenario analysis (the "**Scenario Analysis**") prepared by AlixPartners to support the relief requested in the Motion.<sup>3</sup>

10. The annexed Scenario Analysis highlights the incremental value of the GUC Trust's active negotiation and litigation of Disputed General Unsecured Claims to Trust Unit beneficiaries through its presentation of four separate scenarios. Two of the scenarios – Scenarios 1 and 2 – assume (a) no additional cash is made available to fund claims resolution and (b) as a result, Disputed General Unsecured Claims are allowed by

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<sup>3</sup> At the request of the GUC Trust Administrator, AlixPartners performed a similar analysis in late 2011.

the Court at their full asserted amounts of approximately \$37.1 billion (in Scenario 1) or \$36 billion (in Scenario 2).<sup>4</sup> The sole difference between the two scenarios is that, in Scenario 2, I assume that the GUC Trust will successfully disallow all or parts of Disputed General Unsecured Claims, equal to \$1.1 billion, using remaining cash allocated pursuant to the Initial Budget to fund further claims resolution. This assumption is also based off of my experience with the GUC Trust as well as my general knowledge of the merits of the remaining Disputed General Unsecured Claims. Under Scenario 2, because of the assumed disallowance of \$1.1 billion in claims, Excess GUC Trust Distributable Assets would be distributed to Trust Unit beneficiaries (when compared with Scenario 1), increasing creditor recoveries by approximately .3% (from approximately 19.9% to 20.2%).

11. By contrast, Scenarios 3 and 4 assume (a) the GUC Trust is able to fully fund the claims resolution process through 2012 (*i.e.* to the extent requested in the Motion) and (b) as a result, total Allowed General Unsecured Claims decrease to \$35 billion (in Scenario 3) or \$33.5 billion (in Scenario 4). Based on my experience, and the GUC Trust's disallowance of approximately \$2.2 billion in Disputed General Unsecured Claims during its first 9 months of existence, I believe both of these assumptions are reasonable, assuming the GUC Trust has adequate resources to fully prosecute claims objections.

12. Although I cannot be certain of how successful the GUC Trust will be reconciling claims moving forward, the Scenario Analysis and the assumptions

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<sup>4</sup> Currently, approximately \$30 billion in unsecured claims have been allowed in the Chapter 11 Cases.

underlying the Scenario Analysis lead me to conclude that claims resolution favorable to the GUC Trust is likely to have a considerably greater effect on allowed creditor recoveries than the reduction in distributable assets caused by selling New GM Securities to fund reasonable Trust Professional fees and expenses in excess of their initially budgeted amounts. By the Motion, I understand that the GUC Trust Administrator has sought authority to liquidate approximately \$17.9 million of New GM Securities to fund GUC Trust costs and expenses for 2011 and 2012.<sup>5</sup> I believe liquidation of these securities to fund GUC Trust costs and expenses is fully justified by the resulting anticipated benefits to Trust Unit beneficiaries on account of the claims resolution process. Taking into account incremental costs and expenses, if the GUC Trust Administrator and Trust Professionals successfully reduce Disputed General Unsecured Claims so that final Allowed General Unsecured Claims total \$35 billion (as outlined in Scenario 3), allowed creditor recoveries would increase to approximately 20.41%, more than .2% greater than creditor recoveries under the baseline Scenario 2. If Disputed General Unsecured Claims are further reduced so that final Allowed General Unsecured Claims total \$33.5 billion, creditor recoveries would rise to 21.33%, over 1.14% greater than under Scenario 2.

13. The benefits of claims resolution described in the preceding paragraph can also be set forth in dollars. GUC Trust beneficiaries, in aggregate, would receive between \$80 million and \$480 million more under Scenarios 3 and 4 than in

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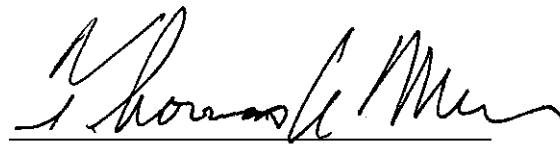
<sup>5</sup> Because this Declaration concerns only claims reconciliation costs and benefits, additional Reporting and Transfer Costs and Avoidance Action Trust costs for which funding is sought in the Motion are not incorporated into this analysis.



Scenarios 1 and 2, respectively. Even under the more conservative Scenario 3, the resulting benefit (net of the additional funding) relative to Scenario 2 would equal approximately 4.5 times greater than the \$17.9 million of New GM Securities proposed to be liquidated per the Motion to fund the attendant GUC Trust administrative fees, costs and expenses.

14. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: Dallas, Texas  
February 23, 2012

A handwritten signature in black ink, appearing to read "Thomas A. Morrow", written over a horizontal line.

Thomas A. Morrow

**Exhibit A**

	Amount	Shares	A Warrants	B Warrants	Total			
<b>Global Assumptions</b>								
Price per share/warrant <sup>(2)</sup>	\$	24.20	\$	15.34	\$	10.60		
<b>Scenario 1</b>								
<b>Allowed Claims at \$37 B; do not liquidate securities</b>								
Allowed Claims	\$	37,083,147,838						
Total shares/warrants <sup>(1)</sup>		149,912,818	136,284,379	136,284,379				
Additional shares		8,927,776						
Adjusted shares/warrants		158,840,594	136,284,379	136,284,379				
Wind-down budget								
Reporting and Transfer budget								
Estimated Market Value	\$	-	\$	-	\$	-		
Remaining shares/warrants		158,840,594	136,284,379	136,284,379				
Estimated Market Value	\$	3,843,942,386	\$	2,090,602,374	\$	1,444,614,417	\$	7,379,159,177
Estimated Allowed Claims					\$	37,083,147,838		
Per \$1,000 of Allowed Claim		4.28	3.68	3.68				
Estimated Market Value	\$	103.66	\$	56.38	\$	38.96	\$	198.99
Recovery %								<b>19.90%</b>
<b>Scenario 2</b>								
<b>Allowed Claims at \$36 B; do not liquidate securities</b>								
Allowed Claims	\$	36,000,000,000						
Total shares/warrants <sup>(1)</sup>		149,912,818	136,284,379	136,284,379				
Additional shares		4,285,714						
Adjusted shares/warrants		154,198,532	136,284,379	136,284,379				
Wind-down budget								
Reporting and Transfer budget								
Estimated Market Value	\$	-	\$	-	\$	-		
Remaining shares/warrants		154,198,532	136,284,379	136,284,379				
Estimated Market Value	\$	3,731,604,481	\$	2,090,602,374	\$	1,444,614,417	\$	7,266,821,273
Estimated Allowed Claims					\$	36,000,000,000		
Per \$1,000 of Allowed Claim		4.28	3.79	3.79				
Estimated Market Value	\$	103.66	\$	58.07	\$	40.13	\$	201.86
Recovery %								<b>20.19%</b>

Motors Liquidation Company GUC Trust  
Recovery Estimate

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	Amount	Shares	A Warrants	B Warrants	Total
<b>Scenario 3</b>					
<b>Allowed Claims at \$35 B; liquidate securities</b>					
Allowed Claims	\$ 35,000,000,000				
Total shares/warrants <sup>(1)</sup>		149,912,818	136,284,379	136,284,379	
Additional shares		-			
Adjusted shares/warrants		149,912,818	136,284,379	136,284,379	
Wind-down budget		373,918	339,925	339,925	
Reporting and Transfer budget					
Estimated Market Value	\$	9,048,816	\$ 5,214,450	\$ 3,603,205	\$ 17,866,470
Remaining shares/warrants		149,538,900	135,944,454	135,944,454	
Estimated Market Value	\$	3,618,841,380	\$ 2,085,387,924	\$ 1,441,011,212	\$ 7,145,240,517
Estimated Allowed Claims					\$ 35,000,000,000
Per \$1,000 of Allowed Claim		4.27	3.88	3.88	
Estimated Market Value	\$	103.40	\$ 59.58	\$ 41.17	\$ 204.15
Recovery %					<b>20.41%</b>
<b>Scenario 4</b>					
<b>Allowed Claims at \$33.5 B; liquidate securities</b>					
Allowed Claims	\$ 33,500,000,000				
Total shares/warrants <sup>(1)</sup>		149,912,818	136,284,379	136,284,379	
Additional shares					
Adjusted shares/warrants		149,912,818	136,284,379	136,284,379	
Wind-down budget		373,918	339,925	339,925	
Reporting and Transfer budget					
Estimated Market Value	\$	9,048,816	\$ 5,214,450	\$ 3,603,205	\$ 17,866,470
Remaining shares/warrants		149,538,900	135,944,454	135,944,454	
Estimated Market Value	\$	3,618,841,380	\$ 2,085,387,924	\$ 1,441,011,212	\$ 7,145,240,517
Estimated Allowed Claims					\$ 33,500,000,000
Per \$1,000 of Allowed Claim		4.46	4.06	4.06	
Estimated Market Value	\$	108.03	\$ 62.25	\$ 43.02	\$ 213.29
Recovery %					<b>21.33%</b>

**Notes**

(1) Total shares/warrants reduced by 87,182 common shares and 79,256 warrants of each class of warrant related to the Reporting and Transfer Holdback sold in May 2011, resulting in cash proceeds of \$5.6M.

(2) Based on market prices as reported by the NYSE on 1/13/2012.

(3) The dilutive effect of issuing additional shares if claims allowed were greater than \$35 billion was excluded from this analysis as non-material. If dilution had been considered it would have further reduced the recoveries in scenario 1 and 2.

**Motors Liquidation Company GUC Trust**

Incremental Recovery Analysis

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		Incremental Recovery Analysis			
		Scenario			
		1	2	3	4
Scenario 1	Allowed Claims at \$37 B; do not liquidate securities	37,083,147,838	19.90%	NA	
Scenario 2	Allowed Claims at \$36 B; do not liquidate securities	36,000,000,000	20.19%	NA	
Scenario 3	Allowed Claims at \$35 B; liquidate securities	35,000,000,000	20.41%	180,606,006	80,275,391
Scenario 4	Allowed Claims at \$33.5 B; liquidate securities	33,500,000,000	21.33%	479,090,342	383,059,610

Notes: The range of additional recovery to the creditors in scenario 3 and 4 over scenario 1 and 2 is \$80 million to \$479 million.